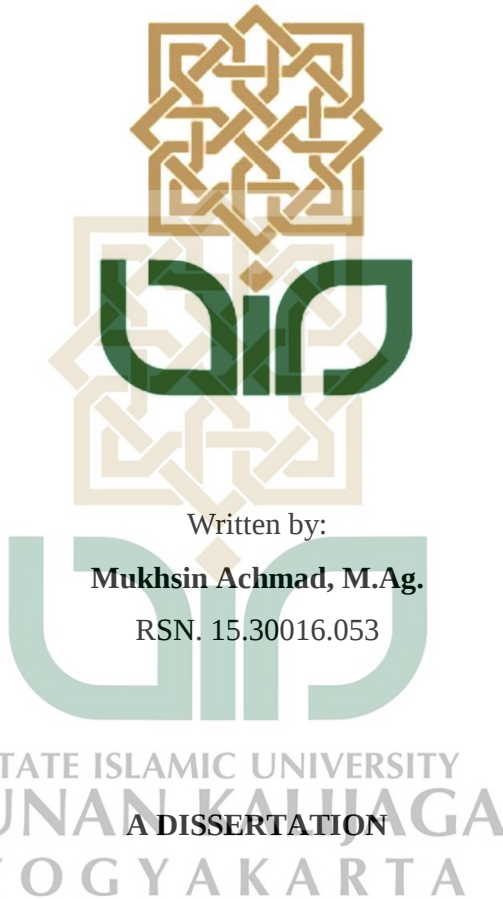


**MUI, FATWA, AND VIOLENCE AGAINST SHI'ITE
MINORITY IN SAMPANG, MADURA**



Written by:

Mukhsin Achmad, M.Ag.

RSN. 15.30016.053

The School of Graduate Studies
State Islamic University Sunan Kalijaga
Yogyakarta
2019





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PENGESAHAN

Dissertation entitled : MULI, FATWA, AND VIOLENCE AGAINST SHI'ITE MINORITY IN
SAMPANG, MADURA

By : Mukhsin Achmad, S.Ag., M.Ag.
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Department. : Doctor (S3) / Islamic Studies
Specialization : *Islamic Thought and Muslim Societies (ITMS)*

To be submitted and defended
As one of the requirements to obtain a Doctoral degree (Dr.)
In Islamic Studies with specialization in *Islamic Thought and Muslim Societies*

Yogyakarta, 18 October 2019

On Behalf The Rector
Head of the Examining Committee,

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SUNAN KALIJAGA
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Prof. Dr. H. Siswanto Masruri, MA.
NIP. 195307271983031005



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HAS SUCCESSFULLY PASSED THE EXAMINATION WITH:

PUJIAN (CUM LAUDE) / ~~VEY SATISFACTORY~~ / SATISFYING*

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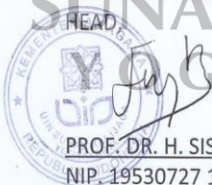
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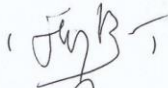
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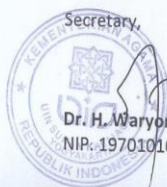
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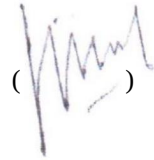
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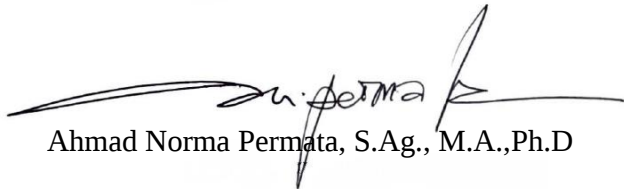
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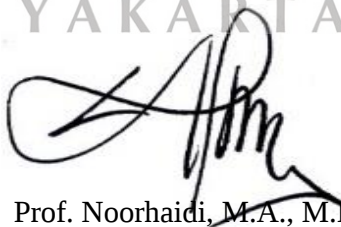
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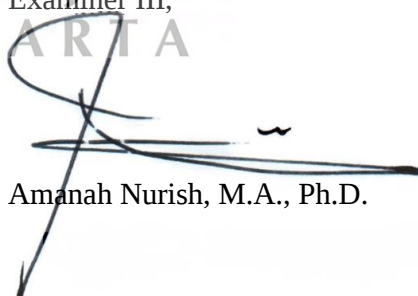
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ABSTRACT

This dissertation investigates the role of the Council of Indonesian Ulama (MUI) in the Sampang Regency in producing a fatwa against the shi'ite minority, and the relation of this fatwa to the violence that occurred in Sampang, Madura. This dissertation emphasizes the violence against the Shi'i minority in this Regency that occurred both directly and indirectly. Until now, the conflict and violence has not yet found a meaningful solution. Related to this problem, there are several research questions. The first, how did this violence against the Shi'ite community occur? What were the factors behind the violence, and why was the fatwa from MUI produced in Sampang Regency? Was there a connection between the fatwa and public policy in the area, and the violence that occurred? What was the implications of violence against the Shi'ite minority group? To answer the questions above, this dissertation uses several theories to support it. The main theory for answering about conflict and violence is Johan Galtung's theory of triangulation of violence. Galtung divides violence into three categories. Firstly, direct violence, followed by indirect violence, which he called structural violence, and thirdly cultural violence. The other theory is from Norman Fairclough about critical discourse analysis (CDA).

Violence against the shi'i Sampang community includes direct, indirect (structural) as well as cultural violence. Violence both directly in the form of burning, killing and expulsion transformed into structural violence through religious and state instruments, with the fatwa and local public policies. While cultural violence occurred through the discourse concerning shi'a as a heretical sect. Conflict and violence occurred at both the individual and community level. Fatwa as a religious instrument played an indirect role in the making of regional public policies (Governor's regulations) in East Java. In emphasizing the issue, this dissertation also uses Fairclough's theory of Critical Discourse Analysis (CDA). This theory helps to uncover the process of production, consumption and distribution of fatwas and public policies, as well as their discourse and practice.

This qualitative research combines bibliographic and empirical investigations. This method required me to collect a lot of data and analyze it. Some research findings are as follows: the first, the fatwa was not the single cause of violence, but violence is caused by the accumulation of many interrelated factors connected to both individuals and social groups in the struggle for discourse and social practices in Sampang, including ideology, socio-economics, politics, psychology, and the background of the family. Second, direct violence transformed into structural violence after MUI issued a fatwa, and the fatwa became one of the considerations in the making of local public policy (for instance Governor's regulation). Even though fatwas have been produced to protect orthodoxy from the influence of Shiite groups (heterodoxy), fatwas have been used as religious instruments which have been transformed into state instruments. In this case, what actually happened was "positivisation of the fatwa." Positivisation of fatwas is the process of transformation from the fatwa being morally binding to something that is legally binding. Thirdly, there was structural and cultural violence, where one influences the other. This condition had an impact on the process of relocation, resulting in the displacement Shiite communities (from Sampang to Sidoarjo). The final finding is dealing with the post-violence reconciliation process. This reconciliation involves local wisdoms and religious celebration approaches, such as celebrating before the hajj (*walimat al-safar*), marriage, *tibi taretan* (working together), and other social activities. This research is useful for the baseline, for those who care about minorities, and their relationship with the majority. Reconciliation between the majority and minority is absolutely necessary, so that religious life in Indonesia remains harmonious country.

مستخلص البحث

يتناول هذا البحث عن دور مجلس العلماء الإندونيسي في منطقة سمبنج في إنتاج الفتاوى لمجموعة الأقليات الشيعية وارتباطها بالحوادث العنفية الواقعة في سمبنج. وخلفية هذا البحث هي من الحوادث العنفية نحو مجموعة الأقليات الشيعية التي تحدث بشكل مباشر أو غير مباشر. ولم يتم حل النزاع والعنف حتى الآن. لذلك، أراد الباحث الكشف عن هذه المشاكل الخاطرة بطرح العديد من الأسئلة. و منها كيف يحدث هذا العنف تجاه مجموعة الأقليات الشيعية. ما هي العوامل المثيرة وراء هذا العنف؟ ولماذا يتم إنتاج الفتوى لمجلس العلماء الإندونيسي بمنطقة سمبنج؟ و هل هناك صلة بين الفتاوى المنتجة و السياسة العامة في المنطقة التي تحدث فيها العنف؟ و إلى أي مدى تدعيات هذا العنف تجاه مجموعة الأقليات الشيعية؟

إجابة على الاسئلة المطروحة السابقة، استخدم هذا البحث العديد من النظريات التي تدعمها. والنظرية الرئيسية للإجابة هذا الصراع و العنف هي نظرية يوهان غالتونج Johan Galtung حول تثليث العنف (*triangulation of violence*). يقسم غالتونج العنف إلى ثلاث فئات. أولها العنف المباشر. وثانيها العنف غير المباشر أو ما يسمى بالعنف البنيوي (*structural violence*) وثالثها العنف الثقافي (*culture violence*). ويشمل العنف نحو المجتمع الشيعي بسمبنج على ثلاثة عنوف سواء كان مباشرا أو غير مباشر أو ثقافيا. و تحوّل العنف بشكل مباشر مثل الحرق العمد و القتل و الطرد إلى العنف بشكل بنيوي تحويلا تاما من خلال أدوات دينية و حكومية عبر الفتاوى والسياسات العامة المحلية. و أما العنف الثقافي فيحدث من خلال عملية خطاب الشيعة كأيدولوجية مضللة. ويحدث العنف في المستويين الفردي و المجتمعي.

وتعلب الفتاوى كأداة دينية دورا في صنع السياسات العامة المحلية في محافظة جاوى الشرقية (نظام محافظ) بشكل غير مباشر. و في كشف هذه القضية، استخدم البحث أيضا نظرية فيركلو لتحليل الخطاب النقدي (Critical Discourses Analysis). تدعم هذه النظرية الكشف عن النشر و الاستخدام و توزيع الفتاوى و السياسات العامة و خطاها و تطبيقها. و هذا

البحث بحث كيفي من خلال الجمع بين الحقائق البليوغرافية و التجريبية. و تتطلب هذه الطريقة الباحث بأن يجمع كثيرا من البيانات ثم يحللها.

وتدل نتائج هذا البحث على النقاط التالية أولها، ليست الفتاوى هي السبب الوحيد للعنف وإنما هو العنف الناتج من تراكم العديد من العوامل المترابطة سواء كان شخصا أو مجتمعا في الصراع بين الخطاب و الممارسات الإجتماعية في سمنج بما فيه من الإيديولوجية و الإجتماعية و الإقتصادية و السياسية و علم النفس و الخلفية العائلية. ثانيا، تحول العنف المباشر إلى العنف البنوي بعد أن أصدر مجلس العلماء الإندونيسي الفتاوى. و أصبحت الفتاوى واحدة من الإعتبارات في وضع السياسة العامة المحلية. بالرغم من أن الفتاوى قد تم إنتاجها لحماية الأرثوذكسية من تأثير المجموعة الشيعية وإنما إنتاجها كأداة دينية تحولت إلى أداة حكومية. وفي هذه الحالة، ما حدث بالفعل هو "تثبيت الفتاوى". و هو عملية تحويلية من الفتاوى ذات قوة أخلاقية إلى قوة قانونية ملزمة و مجبرة. ثالثها، هناك عنف بنوي و ثقافي حيث أن يؤثر أحدهما على الآخر. وهذا يؤدي إلى إنشاء المجتمعات الشيعية المهملة و النازحة (من سمنج إلى سيدوريجو). و أما النتيجة النهائية فهي ما يتعلق بعملية إصلاحية بعد العنف. و ينطوي هذا الإصلاح على المصلحة المحلية و المشاركة بالإحتفالات الدينية مثل التعاون بينهم قبل حضور وليمة الحج و الزواج و غيرها من الأعمال الإجتماعية. و يعد هذا البحث شدة الإفادة لإنشاء الخط الأساسي و لهؤلاء الأقليات و الدعم مع المساهمات. و الإصلاح ضروري لازم في رعاية الحياة الدينية في إندونيسيا بحيث تكون متناغمة و مفضية.

ABSTRAK

Disertasi ini ingin mengungkap peran MUI Kabupaten Sampang dalam memproduksi fatwa terhadap kelompok minoritas shi'i serta kaitannya dengan peristiwa kekerasan yang terjadi di Sampang, Madura. Penelitian ini dilatarbelakangi oleh peristiwa kekerasan terhadap kelompok minoritas Shi'i yang terjadi baik yang bersifat langsung maupun tidak langsung. Sampai saat ini Konflik dan kekerasan tersebut belum ada penyelesaian yang berarti. Untuk mengungkap masalah di atas, ada beberapa pertanyaan penelitian yang diajukan. Pertama, bagaimana kekerasan terhadap komunitas shi'i itu bisa terjadi? Apa faktor dibalik kekerasan itu terjadi? Dan mengapa fatwa MUI kabupaten Sampang itu diproduksi? Apakah ada kaitan antara fatwa dan kebijakan publik di daerah dengan kekerasan itu terjadi? Serta sejauhmana implikasi kekerasan terhadap kelompok minoritas shi'i tersebut.

Untuk menjawab pertanyaan-pertanyaan diatas, disertasi ini menggunakan beberapa teori yang mendukung. Teori utama untuk menjawab tentang konflik dan kekerasan adalah teori Johan Galtung tentang triangulasi kekerasan. Galtung membagi kekerasan ada tiga kategori. Pertama, kekerasan langsung, kekerasan tidak langsung yang ia sebut sebagai kekerasan structural dan ketiga kekerasan kultural. Kekerasan terhadap komunitas shi'i Sampang mencakup tiga kekerasan sekaligus baik langsung, tidak langsung (structural) maupun kekerasan cultural. Kekerasan baik secara langsung berupa pembakaran, pembunuhan dan pengusiran telah mengalami proses transformasi menjadi kekerasan yang bersifat structural melalui instrument agama dan negara melalui fatwa dan kebijakan public daerah. Sedangkan kekerasan cultural terjadi melalui proses pewacanaan shi'a sebagai ideologi yang sesat dan menyesatkan terjadi. Konflik dan kekerasan terjadi baik pada level individu maupun kelompok masyarakat. Fatwa sebagai instrument agama telah berperan menjadi salah satu pertimbangan secara tidak langsung dalam pembuatan kebijakan public daerah (peraturan gubernur) di Jawa Timur. Dalam mengungkap persoalan tersebut disertasi ini juga menggunakan teori Fairclough tentang Analisis Wacana Kritis

(CDA). Teori ini ingin membantu mengungkap proses penerbitan, penggunaan, dan distribusi fatwa dan kebijakan publik, serta wacana dan praktiknya.

Penelitian ini adalah kualitatif dengan menggabungkan investigasi bibliografi dan empiris. Metode ini mengharuskan saya untuk mengumpulkan banyak data dan kemudian menganalisisnya.

Beberapa temuan penelitian adalah sebagai berikut: Pertama, fatwa bukan penyebab tunggal kekerasan terjadi namun kekerasan disebabkan oleh akumulasi banyak faktor yang saling terkait baik individu, kelompok sosial dalam pergulatan wacana dan praktik sosial di Sampang termasuk ideologi, sosial ekonomi, politik, psikologi, dan latar belakang keluarga. Kedua, kekerasan langsung telah bertransformasi menjadi kekerasan structural setelah MUI mengeluarkan fatwa dan fatwa tersebut menjadi salah satu pertimbangan dalam pembuatan kebijakan publik daerah (peraturan gubernur). Sungguhpun fatwa telah diproduksi untuk menjaga kepentingan orthodoxy dari pengaruh kelompok shi'ite, namun fatwa telah digunakan sebagai instrument agama yang bertransformasi menjadi instrument negara. Dalam hal ini, yang sebenarnya terjadi adalah "positivisasi fatwa." Positivisasi fatwa adalah proses transformasi dari fatwa berkekuatan moral menjadi bekekuatan hukum yang mengikat dan memaksa. Ketiga, ada kekerasan struktural dan budaya, di mana satu mempengaruhi yang lain. Kondisi ini berdampak pada pembuatan komunitas Syiah yang terlantar (dari Sampang ke Sidoarjo). Dan temuan terakhir adalah berurusan dengan proses rekonsiliasi pasca kekerasan. Rekonsiliasi ini melibatkan kearifan lokal dan pendekatan perayaan keagamaan, seperti merayakan sebelum haji (walimat al-safar), pernikahan, taretan tibi (bekerja untuk bekerja bersama), dan kegiatan sosial lainnya. Penelitian ini sangat bermanfaat untuk garis dasar, bagi mereka yang peduli terhadap minoritas, dan hubungannya dengan mayoritas. Rekonsiliasi antara mayoritas dan minoritas mutlak diperlukan agar kehidupan beragama di Indonesia tetap harmonis dan kondusif.

TRANSLITERATION

This work contains many non-Arabic words, in language such as Indonesian, Javanese, Madurese, and Arabic. I write non-English words in italics. To give an explanation to those non-English words, I use box parentheses ([]) for short, and in footnote for long or detail explanations. To write Arabic words, I use transliteration system of the Library of Congress and the *International Journal of Middle Eastern Studies*, with slight variations.

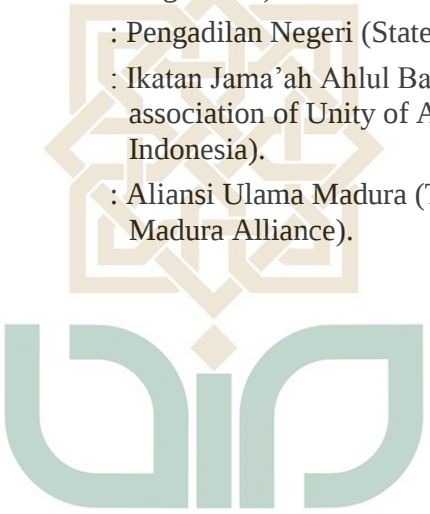
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ب = b	س = s	ق = q	
ت = t	ش = sh	ك = k	
ث = th	ص = ṣ	ل = l	
ج = j	ض = ḍ	م = m	
ح = ḥ	ط = ṭ	ن = n	
خ = kh	ظ = ḏ	و = w	
د = d	ع = '	ه = h	
ذ = dh	غ = gh	ي = y	
ر = r			
Short:	= a	= i	= u
Long:	ا = ā	ي = ī	و = ū
Diphthong:	اي = ay	او = aw	

In the case of *ta marbuta* (ة) this is omitted unless it occurs within an *iḍāfa* in which case it is written “t”, such as *waḥdat al-wujūd*. Some Arabic word that have been incorporated into Indonesian, Javanese, or Madurese and are indicate to certain event, name of institutions and persons, or have been being an Indonesian words are written in their original forms, such as ‘*Ulama*’ instead of ‘*Ulama*’, ‘*fatwa*’ instead of ‘*fatwā*’, and ‘*Sultan Hasanuddin*’ instead of ‘*Sulṭān Ḥasan al-Dīn*’.

TABLE OF ABBREVIATIONS AND ACRONYMS

BAKORPAKEM	: Badan Koodinasi dan Pengawasan Kepercayaan Masyarakat (Coordinating Agency for monitoring Society's Beliefs)
BASSRA	: (Badan Silaturrahmi Ulama Pesantren Madura/Pesantren religious leaders Forum)
DDII	: Dewan Dakwah Islamiyah Indonesia (Council of Islamic Propagation of Indonesia)
DMI	: Dewan Masjid Indonesia (Indonesian Council of Mosques)
FUI	: Forum Ukhuwah Islamiyyah (Islamic Brotherhood Forum) FURKON Forum Umat Islam Penegak Keadilan dan Konstitusi (Muslim Society Forum for Justice and Constitution Enforcement)
FPI	: Front Pembela Islam (Islam Defenders Front)
ICMI	: Ikatan Cendekiawan Muslim Indonesia (Indonesian Association of Muslim Intellectuals.
GUIB	: Gerakan Umat Islam Bersatu/Muslims United Movement
KUHP	: Kitab Undang-Undang Hukum Pidana (Indonesian Criminal Code)
KUHAP	: Kitab Undang-Undang Hukum Perdata (Indonesian Civil Code)
KUII	: Kongres Umat Islam Indonesia (Congress of the Indonesian Islamic Community)
MUI	: Majelis Ulama Indonesia (The Council of Indonesian Ulama)

NKRI	: Negara Kesatuan Republik Indonesia (Unitary State of the Indonesian Republic)
NU	: Nahdlatul Ulama (The Awakening of Ulama)
PAKEM	: Pengawas Aliran Kepercayaan Masyarakat (Monitoring Agency for Society's Belief)
PERGUB	: Peraturan Gubernur (Governor Regulation)
PN	: Pengadilan Negeri (State Court)
IJABI	: Ikatan Jama'ah Ahlul Bait Indonesia (The association of Unity of Ahlul Bait in Indonesia).
AUMA	: Aliansi Ulama Madura (The Ulama of Madura Alliance).



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I can only give thanks to Allah SWT for giving me strength and health to be able to complete this dissertation. I write my dissertation with the title “MUI, Fatwa, and Violence against Shi`ite Minority in Sampang, Madura,” because my concern for the topic emerged a long time ago when I was active in the “Lembaga Swadaya Masyarakat” (Non-government organization) and in the regional Ombudsman Institution in Yogyakarta. The issue of vulnerable and marginalized groups are often ignored/ unfulfilled and not satisfying human rights in general. Included in this vulnerable and marginalized group are minority groups. There are many minority groups in Indonesia such as in general, however I chose a minority group within the Muslim community, namely the Shia group, because in my opinion the Shi`a group is both unique and interesting. Shi`a groups in Indonesia on one hand have a good relationship with other Muslims, howvere on the other hand the relationship between Sunni and Shi'i is colored with conflict and violence. Violence against Shia groups is often a latent danger in Indonesia, which has the potential to occur not only in the Sampang but also in other areas in Indonesia.

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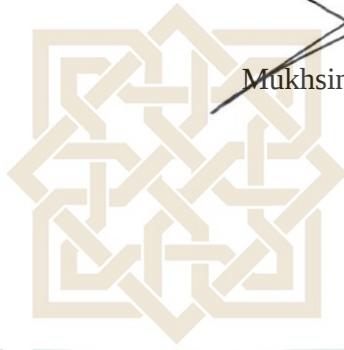
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CHAPTER I INTRODUCTION

A. Background

MUI, fatwa, and violence are interrelated in social practice of Indonesian Muslim society. MUI expresses the authority through the fatwa. Fatwa is the part of the religious discourse that expressed by language. Language, discourse and social practice are in a dialectic relationship with each other.¹ Language is not only for communication, however is also a way to exercise power. Language and social practice are not in direct relationship but occurs by discursive practice. Discourse constitutes the social practice, and social practice could constitute discourse. Discourse not only refers to the text, but also to the spoken language.² Behind the discourse and social practice there is the ideology and hegemony of the formation of discourse and social practice.³

The discourse on the *fatwa* issued by MUI against Shi'ite minority groups in Indonesia is often a controversial issue. On one hand, it aims to protect the ideology of the majority group

¹ The social theory of discourse is linguistically-oriented as it aims at analysing social and political event in society. In this theory, discourse is viewed as a social practice which establishes power between various entities. Apparently, this leads to the emergence of power and ideological practice in society which provide power in discourse and signifies various world views from different perspectives. Fairclough (1992) proclaimed that "language use in society is a form of social practice rather than an individual activity". This notion is correlated to the occurrence of power and ideology in discourse. For more information Renugah Ramanathan & Tan Be Hoon, Application of Critical Discourse Analysis in Media Discourse Studies 3L: The Southeast Asian Journal of English Language Studies – Vol 21(2): 57 – 68. Norman Fairclough on his book discourse and social change elaborates that discourse practice and social practice constituted each other. Social practice is wholly constructed by discourse practice. On this dissertation I utilize the theory and including the method of Fairclough on text production, distribution and consumption. But to capture the conflict and violence, I utilize the Johan Galtung theory. Please read on Norman Fairclough, *Discourse and Social Change* (UK, Polity Press, 1992), 71-72.

² Fairclough, *Discourse and social change*, 71.

³ *Ibid.*, 86-92.

from the influence of the ideology of minority groups, nevertheless, it could potentially be a justification for discrimination and violence against these minority groups.

Power shapes a discourse, nevertheless discourse is also shaped by power. The dialectical relationship between power and discourse in this study is very interesting, as it is viewed from three aspects: *fatwa*, public policy and violence against religious minority groups in Indonesia. This study deals with *fatwa*'s, public policy and violence against minority groups in Indonesia. Due to violence against minority groups becoming the latent issue as it occurs anywhere and anytime, minority groups become the vulnerable group in society, and thus often becoming the target of violence from the majority.

Social facts show that there is a significant amount of violence against minority groups.⁴ The "Setara Institute", concerned with minority group issues and religious freedom, conveys a significant increase in the number of cases of violence in Indonesia.⁵ Throughout 2016, the "Setara Institute" recorded 208 incidents of violations of religious freedom/ belief, with 270 acts of violence, spread throughout 24 provinces. Most of these occurred in West Java, with 41 in DKI Jakarta (31 events) and East Java (22 events).

⁴In Indonesia, the discourse about minorities is almost neglected. Although in reality there are many minority groups in Indonesia but in the overall legal structure in Indonesia, the word minority is almost never formulated, from the 1945 Constitution to the latest laws, even those relating to citizenship. Intellectually the minority discourse has also not become the attraction of the study even in academic tradition. The term minority according Francesco, is a group which, in terms of numbers lower than the rest of the population of a country, is in a dominant position, whose members - citizens of a country - have different ethnic, religious, linguistic characteristics from the side of the population and shows, though only implicitly, a sense of solidarity directed at preserving their culture, tradition, religion and language. For further information please read Ahmad Suaedy and friends, *Islam dan Kaum Minoritas: Tantangan Kontemporer*, (Jakarta: The Wahid Institute, 2012), 8-9.

⁵<http://setara-institute.org/kondisi-kebebasan-beragama-berkeyakinan-dan-minoritas-keagamaan-di-indonesia-2016/>, last accessed at march 13, 2019.

The interconnection of a *fatwa* and violence has been debated amongst scholars. While some scholars stated that a *fatwa* and violence are related with each other, however on the other hand a *fatwa* is not the only factor of violence.⁶ Many factors possibly triggering violence in Sampang will be investigated in this dissertation. It is possible that the violence is related to the public policy of the local government, however there could be many other factors causing violence against the Shi'a group in Sampang and Sidoarjo. It is also complicated by factors within the Sampang and Sidoarjo society.

This study deals with the issue of the *fatwa*'s by MUI in the Sampang regency, public policy of the local government, and violence against religious minority groups in the Sampang and Sidoarjo districts. This study also utilizes a critical discourse analysis of Norma Fairclough's book,⁷ to help capture how language influences the social practice through discursive practice. A *fatwa* communicates to social practice through language. It is produced, distributed and accepted by society, influencing social practices. This study will investigate the *fatwa*'s influence on the society, including local authority producing the public policy of the local government.

A *fatwa*, is a religious instrument that is morally binding, as well as becoming a public policy that is legally binding. The impact of this forces the state to protect all citizens of various religions and backgrounds from many forms of religious heresy. MUI, which has the authority to decide something is heresy or not, takes a main role in the content of public policy. Is it true that violence against Shi'a was inspired by the issuing of a *fatwa* and public policy? To be able to answer this question, field research, as well as literature analysis, is needed.

This study presents an interesting topic, for a number of reasons. The first reason is that the violence against religious minority groups has become the latent issue. It potentially

⁶ Robitul Firdaus, *Fatawa on Shi'ism in Indonesia (1920- 2012)A Critical Analysis*, (Malaysia, The dissertation of Doctoral degree on IIUM, 2016).

⁷ Fairclough, *Discourse and social change*, (UK, Polity Press, 1992).

occurs in other regions in Indonesia, however with the different triggers. The second reason is the position of a *fatwa* is problematic in the democratic state. On one hand, a *fatwa* is a religious instrument by which *Ulama* express their authority, however on the other, the state has an obligation to protect all citizens from discrimination. In many cases under the hegemony of the majority, the conclusions of religious discourse on religious minority groups, such as Ahmadiyah and Shi'a as heretical sects, occurs in many regions in Indonesia. For instance in Banten the emergence of public policies are triggered by a *fatwa* as the consideration of the issuing on public policy.⁸ The same case also occurred with the creation of the Joint Ministerial Decree that prohibits the Ahmadiyah community from spreading their belief. The Indonesian Ulama Council (MUI) promoted the introduction of this decree.⁹

Thirdly, the relationship between a *fatwa* of MUI Sampang and a *fatwa* of MUI East Java province with the production of a local public policy is problematic. An example of this is the verdict of the judge of the state court of Sampang regency and decree of the governor regulation of East Java (number 55 of 2012) on the monitoring of deviants sect in East Java. In one case, religious authorities protect the Sunni group from the influence of the Shi'a, but in the other case the state authority protects all citizens in order to encourage religious harmony. Nevertheless, the government often takes side to the majority.¹⁰

⁸Regulation of The Banten Governor Number 5 Of 2011 About Prohibition Of Activities Of Members, Members And / Or Members Of Jemaat Ahmadiyah Indonesia (JAI) Educators In Banten Province Area.

⁹ Namira Puspandari, *The Increasing Intolerance towards Religious Minorities in Indonesia: Have the existing laws been protecting or marginalising them?* (Tilburg: Master's Thesis LLM International and European Law, 2015).

¹⁰Ahmad Najib Burhani stated in his dissertation the position of the state by using the term of Giorgio Agamben by the "homo sacer". This position was chosen by state through the state of exception. The state excluded by providing the camp in other place. But the refugees (including who claimed by religious heresy) do not allow to kill them. For further explanation read more on Ahmad Najib Burhani, *When Muslims are not Muslims: The*

Between protecting the majority and accommodating the minority, it is possible to achieve both. This issue becomes interesting, as the Shi'a minority, at the time of the writing of this dissertation, became internally displaced persons within refugee camps in "Puspo Agro" Sidoarjo. Their security as well as their future concerning their family and fate was in jeopardy.

Lastly, violence against the Shi'a group in Sampang has become an international issue regarding religious freedom in Indonesia. Indonesia is the largest Muslim country in the world with a democratic system. However, the violence amongst religious sects has brought up a question as to why the violence emerges. Actually, violence against Shi'a groups has occurred in many regions in Indonesia, such as in Yogyakarta, Sampang, as well as other regions of Indonesia. The violence against Tajul Muluk and his followers is also an interesting issue. What was the factor underlying this violence? If we compare other regions of Sampang, such as in Pamekasan, we can see that there is a good relationship amongst them. Why is the social interaction between Sunni and Shi'i in Sampang affected by conflict?

This study focuses on MUI's Fatwa within the Sampang regency, as well, as public policies and violence against religious minority groups in Sampang, Madura, East Java. There is the argument that MUI's Fatwa and violence against religious minority groups have a strong connection.¹¹ Nevertheless, violence against minority groups have emerged due to factors other than a *fatwa*.¹² Other factors, possibly being the main reasons for violence, will be investigated through field research and observation. These factors include different ideologies, the politic-

Ahmadiyya Community and the Discourse on Heresy in Indonesia, California: University of California Santa Barbara, 2013.

¹¹ Although the report is about Ahmadiyah, it can be applied to other minority groups as well. Fatwa is often considered as a religious instrument that can unify Muslims in Indonesia. for further explanation read Lutfi Asyaukani, "Fatwa and Violence in Indonesia", *Journal of Religion and Society*, Volume 11 (2009), 15.

¹² Robitul Firdaus, *Fatawa on Shi'ism in Indonesia (1920- 2012)A Critical Analysis*, (Malaysia, A Dissertation of Doctoral degree on IIUM, 2016).

economic factors, psychological factors, and social jealousy. This research paper will also consider the relationship between local and global contexts of the Sunni and Shi`i communities.

Fatwas,¹³ by the definition of Islamic legal opinion, are declared by a jurist to be morally binding, not legally binding. However, MUI's *fatwa*'s often influences the government in their public policy on a local and national level. This influence will be investigated on a local level, such as with the introduction of governor regulations in East Java against minority sects. Within this context, the question arises whether a *fatwa* influences public policy. While the public policy is supposedly designed by the government through introducing regulations, the public policy could be designed by the decisions and actions made by those in other authorities.¹⁴ In other words public policies may or may not be implemented just through government actions.

Besides research focusing on the violence against the Shi`a group in Sampang and its relationship to the *fatwa* including the public policy in Sampang and East Java province, it also focuses on the influence of MUI's *Fatwa*'s to transform public policy in local districts. The interconnection between MUI, *fatwa*, and emerging violence in Sampang will be investigated.

This study will utilize the Galtung theory of triangulation of violence as the main theory. Galtung introduces three categories of violence such as direct violence, indirect

¹³*Fatwa* is the singular form in Arabic language while *fatawa* are the plural form in Arabic language. But in this research I use *fatwa*'s in English version not using *fatawa* in Arabic version. *Fatwa* etimologically from Arabic language "alfatwa" or "alfutya" its meant the answer to difficult thing on the Islamic law aspect. But on the other term *Fatwa* or *fatawa* (plural) is like advice or the answer of socio-religious problem. For further explanation see the book of Ali bin Muhammad Abu Hasan al Jarjani, *Al-Ta'rifat*, the first edition (Beirut: Dar alfiqr, No Year),32. also compare with the definition of *Fatwa* on Louis Ma'luf, *al-Munjid fi al lughah* (Beirut Syurutuh wa adabah,<http://fatwa.fiqhacademy.org.sa/qarat/17-2html>: Dar al Masyriq, 1977),659.

¹⁴Luthfi J. Kurniawan and Mustafa Luthfi, *Hukum dan Kebijakan Publik. Perihal Negara, Masyarakat Sipil dan Kearifa Lokal dalam perspektif Politik Kesejahteraan*, (Malang: Setara Press, 2017).

(Structural) violence, and cultural violence. To support the analysis on fatwa and public policy this dissertation employs theory of critical discourse analysis (CDA) by Fairclough, which states that discourse and practice are inseparable issues.¹⁵ The *fatwa* is part of the discourse, and violence is a part of the social practice. I use this, because the CDA theory is helpful in analyzing the issuing of a *fatwa* and its relationship to public policy. The CDA of Fairclough is the chosen method to understand how power and knowledge are interconnected. Power works through discourse that is related to language, whilst the *fatwa* and public policies are a part of religious, political and legal discourses.

This research will highlight three important aspects: MUI's *fatwa* for the Sampang regency, the public policy of the government, and the violence against Shi'a people. In fact, religious minority groups throughout Indonesia, such as the Shi'i community, have become vulnerable, and thus are potentially subject to being persecuted. The theory of the *fatwa's* ethics by Khaled Abou el-Fadl also leads to an investigation on *fatwa*, between the authoritarian role in responding to the local issue. He also measures the ethics of a *fatwa* such as diligence, honesty, comprehensiveness, reasonableness, and self-restraint.¹⁶ To illuminate the problem, several research questions will be proposed.

B. Research Questions

This research focuses on MUI, *fatwa*, and violence against Shi'ite minority in Sampang, Madura. The main resource for this research is MUI's *fatwa* on the Sampang regency, as well as the public policy of the local government in East Java, and the violence. This research not only examines MUI's *fatwa* and

¹⁵ Norman Fairclough, *Discourse and Social Change* (UK, Polity Press, 1992).

¹⁶ Khaled Abou al Fadl, *Speaking in God's Name Islamic Law, Authority and Women* (Oxford:One World Publications,2003).

public policies, but also inspects the impact of violence towards religious minority groups in Indonesia, especially towards the Shi'a group. The impact at a local level of MUI's *fatwa* and public policy takes is observed in the Sampang regency, East Java.

To understand these problems in detail, the major questions needed to be answered are:

1. How does violence against Shi'a in Sampang emerge? What are the underlying factors causing the violence against them? Why were they relocated to Sidoarjo?
2. Why were *fatwa*'s and public policies of local government against Shi'ite minority in Sampang being issued? How does the *fatwa* of MUI in the Sampang regency influence the public policy of the East Java regional government, causing violence against Shi'ite minority in Sampang?
3. To what extent does the violence against shi'ite group impact the Muslim society in Sampang, East Java in general?

C. Aim and Objective

The main purposes of this research are:

1. To be able to find and describe the main cause of violence against the Shi'a community in Sampang, as well as other underlying factors.
2. To discover the main argument against the issuing of MUI's *fatwa*'s in the Sampang regency, public policies and their connections or disconnections with the violence against these religious minority groups in other parts of Indonesia.
3. Identify the impact of the violence against the Shi'a group in Sampang on local and national level.

The hope is that the results of this research will provide many benefits, including academic benefits. For the academic purpose, this research is expected to be a reference containing

the root causes of the violence against religious minorities in Indonesia. This research presents the lessons that we can learn concerning issues such as the violence against the Shi'a and other religious minority groups in Indonesia. These lessons learnt include the formulation of religious *fatwa's* such as MUI's *fatwa's* and public policy from the local or national government, especially when relating to minority groups. The lessons learnt refer to conducting *fatwa's* on religious minorities, and its connection to public policy in Indonesia.

D. Literature Review

There are four clusterings in the previous research that I would like to primarily explore. The first clustering in the research is about MUI's Fatwa overall. The second clustering is the research about MUI's Fatwa against the Shi'a group which reveals Fatwa's relationship with the violence against religious minority groups. The third clustering is the discourse that Shi'a is dangerous doctrine. The response to the spreading of this doctrine is needed to balance discourse between critics arguing against issuing Fatwa's and the spreading of Shi'a groups in Indonesia. The fourth clustering is the conflict and violence especially according to Johan Galtung Theory.

On the first clustering, many scholars have studied about MUI's Fatwa's. Scholars such as M. Atho' Mudzhar, is the pioneer of the research on MUI's Fatwa's and context of formulation of Islamic law in Indonesia.¹⁷ M. Atho' Mudzhar highlights the establishment of MUI and the background of the social-political factor in the Soeharto Regime. The important issue about his research on MUI is the early historical development, the socio-political surrounding, and the response of Muslim society and the methods of Islamic law that MUI used to produce Fatwa's. During his research, Mudzhar revealed the

¹⁷ Mohammad Atho' Mudzhar, *Fatwa's of The Council of Indonesian Ulama: A Study of Islamic Legal Thought in Indonesia 1975-1988*, (Jakarta: INIS, 1993). It was translated in Indonesian language, Mohammad Atho' Mudzhar, *Fatwa-Fatwa Majelis Ulama Indonesia Sebuah Studi Tentang Pemikiran Hukum Islam di Indonesia 1975- 1988* (Jakarta: INIS, 1993).

motive of the establishment of MUI being the political need of the Soeharto regime and Muslim society. He investigates several fatwa's related to eight clusters of Islamic legal opinions: ritual, marital and cultural affairs, food, Muslims' attendance at Christmas celebrations, issues on health, family planning, and Muslim minorities. Whilst researching, he finds that some of MUI's Fatwa's are supported by the government policy, however others oppose the government, and a few of them are neither support not oppose the government. This research is fruitful to have a constellation about the Fatwa and the dynamics of Islamic law in Indonesia and its socio-political context.

Changing our focus from Atho Mudzhar's research, we will go to Syafiq Hasyim's research. Syafiq highlights in his examination of MUI's Fatwa and the process of *shariatisation* of public sphere.¹⁸ Syafiq uses the term *shariatisation* due to the term being more sacred. The term *sharia* refers more to the revelation rather than *ijtihad* from Islamic scholars. Thus the term *shariatitation* had more influence on the Muslim society. Syafiq examines that MUI's Fatwa's creates an influence on the process of *shariatiation* in the public sphere. He argues in his thesis that the Fatwa of *halal* certification, the state law of Islamic taxation (*Undang Undang Zakat*), and the emergnce of a district's *sharia* state regulation (*PERDA Shariah*) in a local province in Indonesia. He describes the apparent base of MUI and its role in the *shariatisation* of public policy. Many regions in Indonesia have become relevant to this research. Regions subject to the PERDA Sharia are Aceh, Bulu Kumba (south Sulawesi) and Cianjur (West Java). He argues that MUI has a role on the process of *shariatisation* in the public sphere, even though the process of *shariatisation* is problematic, with Indonesia not being an Islamic state but a Pancasila state. Regarding implementing Sharia Law in the public sphere, MUI

¹⁸ Syafiq Hasyim, *Council of Indonesian Ulama (Majelis Ulama Indonesia, MUI and Its Role on Shariatisation of Indonesia*, (Berlin: Freie Universität Berlin Fachbereich Geschichts- und Kulturwissenschaften, 2013), 19-33.

has strong influence to support the sharia law through the process of democracy. MUI potentially has a strategic political position to encourage the implementation of the sharia law in the public sphere by using a democratic process.

In his research, Syafiq also paid attention to the religious minority groups subject to *shariatisation*. However, in his research on religious minority groups, Syafiq presents a justification for the process of *shariatisation*. Syafiq did not illuminate the fatwa's effects on religious minority groups on the specific case but, MUI's fatwa's affect on religious minorities becomes justification for his thesis. Thus, this research actually goes further and more specific on this subject in discussion than Syafiq did. This paper will analyze three aspects, that is MUI's fatwa, Public policy, and violence against religious minority groups. This research investigates the Sunni general understanding of a *Fatwa* and its influence on the public policy, as well as its impact on the violence against religious minority groups. In another article, Syafiq Hasyim also highlights MUI's *fatwa's* and religious pluralism entitled "Majelis Ulama Indonesia and Pluralism in Indonesia". He concludes with the importance of Indonesia protecting pluralism in order to maintain the diverse cultures and religions throughout the country. In his opinion, MUI's *fatwa's* are counter-productive in protecting religious pluralism in Indonesia. Although, Syafiq deals with *fatwa's* on pluralism in Indonesia, he does not pay attention to religious minority groups in Indonesia.¹⁹

Another article by Luthfi Asy Syaukani discusses the connection between Fatwa and violence in Indonesia,²⁰ concluding that there is a strong connection. His argument leading to his conclusion quotes a report released by the National Commission of Indonesian Human Rights (Komnas

¹⁹ Syafiq Hasyim, "Majelis Ulama Indonesia and Pluralism in Indonesia," *Philosophy and Social Criticism*, 2015, Vol. 41(4-5) 487–495

²⁰ Lutfi asyaukani, "Fatwa and violence in Indonesia," *Journal of Religion and Society*, Volume 11 (2009).

HAM) in the case of Ahmadiyah: *The rejection of some people, particularly from the Muslim majority, to the existence and doctrines of Ahmadiyah is not only articulated in the format of discourse but also frequently in the formats of social conflict and physical assault that cause collateral damage. Discourse against Ahmadiyah took up various ways such as conference, workshop, training, discussion, preaching, teaching, public lecture, brochure, banner, leaflet, posters, demonstration, to make use of violent means such as damaging, burning, looting, and expelling. One of the most important findings of the National Commission of Indonesian Human Rights is that such a discourse was triggered by that of "MUI's Fatwa," which states, among other things, that "Ahmadiyah is an extreme deviant sect."*²¹ Although the report is about Ahmadiyah, according to Luthfi Asy Syaukani this case also corresponds with other religious minority groups.

In another perspective, Moch. Nur Ichwan examines *the Ulama, State, and politics: Majelis Ulama Indonesia after Soeharto*.²² In his research, he concludes that MUI has taken a role in the state and politics. Many fatwas are related to the phenomenon of politics, human rights issues, corruption, and *tawshiyah* on Communism and Marxism and Leninism. Ichwan explores this in more detail in order to distinguish MUI as an organization, rather than the *fatwa* only. He distinguished between the *Fatwa* and *tawshiyah*. He mentions about the declarations of MUI, such as several non-Fatwa discourses, some being: Recommendation (*Tawshiyah*), Admonition (*Tadzkirah*), Instruction/ Mandate (*Amanah*), Position Statement (*Pernyataan Sikap*), Appeal (*Himbauan*), or Thought Contribution. In his research Ichwan stated that MUI shifted from being state-oriented (*khadīm al hukuma*) to being *Umma*-oriented (*khodīm al umma*), as reflected in its slogan,

²¹ Lutfi asyaukani, "Fatwa and violence in Indonesia", 15-16.

²² Moch. Nur Ichwan, *Ulama, State and Politic: Majelis Ulama Indonesia After Suharto*, on *Journal: Islamic Law and Society*, Vol.12 No.1, Fatwa's in Indonesia, 45-72.

used since the president Wahid era, "the servant of the *Umma*." However, the word "*Umma*" remains vague allowing Islam to be expressed in a variety of different ways in Indonesia and thus making it difficult to define a single Islamic community in matters of doctrine and practice.²³

The same mindset with Ichwan is observed in Asad's research. Asad studied MUI's *fatwa* on the general election in Indonesia, and focuses his research on the relationship between Islam and Indonesia. To conclude his research, Asad stated that there are differences in the stance of MUI regarding the general elections in the New Order era and the post-New Order era. Under the New Order regime, MUI could be potentially seen as playing it (strategically) safely by supporting the government. During that era, only in the 1977 general elections, MUI adopted a neutral attitude. This approach was taken due to the pressure of the government which restricted the political movement of MUI. In the post-New Order era, on the contrary, MUI's attitude in the general elections are determined by political developments. MUI changed its attitude both by distancing itself from the government and improvised its decisions in accordance with the political context. MUI's recommendation in the 1999 general elections, encouraged Muslims to vote only for Muslim candidates, and its *Fatwa*, which prohibited not voting, was an indication of this attitude. The attitude apparently emerged due to MUI's desire to be heard by the people. This position was chosen because MUI perceived that its influence in the Reformation era was not as strong as it was in the times of the New Order.²⁴

The second clustering of previous research, are MUI's *Fatwa* on religious minority groups. Many scholars studied MUI's *Fatwa* on religious minority groups such as Shi'a. One of these scholars, Robitul Firdaus, focused on *fatwa* and Shi'a

²³ Moch. Nur Ichwan, *Ulama, State and politic: Majelis Ulama Indonesia after Soeharto*, 72.

²⁴ Muhammad Asad, *Religion and Politics In Indonesia: Attitudes and Influences of The Indonesian Council of Ulama (MUI) on the General Election*, (Leiden: Master Thesis of Leiden University, 2010), 83-85.

in an Indonesia Critical Analysis (1912-2012).²⁵ The sample of his research was not only from MUI's Fatwa, but also from other fatwa's which includes the Fatwa from Hasyim Asy'ari (the founder of Nahdlatul Ulama, the biggest of Islamic mass organization in Indonesia), the Fatwa of *Forum Ulama Ummat Indonesia* (1920), the Fatwa of MUI's structure of Sampang district, and the Fatwa of MUI's structure of East Java Province. His findings on the research reveal that in six fatwa's on *shi'ism* haven't a single pattern, but are influenced by the surrounding socio-political background. In his conclusion, the fatwa's of the new order are influenced by the political interest, while the fatwa's of the reformation era are influenced by the witness of political power of fatwa's in the construction of the government policy.²⁶ In his conclusion, the strong connection between Fatwa and violence was not proven. He argues that the violence was not always connected to the fatwa's, but the violence was caused by complex social and political aspects that play a role against the *Shi'i* community and institutions in Indonesia. But his dissertation did not elaborate on the connection between the fatwa and public policy of the government, and its impact on the violence against religious minorities.

Concerning the issue of Shi'a as a minority group, Chiara Formichi's article, "Violence, Sectarianism, and the Politics of Religion: Articulations of Anti-Shi'a Discourses in Indonesia", stated that the Anti-Shi'a opposition in Indonesia rested on decades of "othering," yet physical violence started with an isolated event in the year 2000, which was followed by an eruption of violence in 2006–13.²⁷ Besides the

²⁵ Robitul Firdaus, *Fatawa on Shi'ism in Indonesia (1920- 2012)A Critical Analysis*, (Malaysia, A Dissertation of Doctoral degree on IIUM, 2016)

²⁶ Robitul Firdaus, *Fatawa on Shi'ism in Indonesia (1920-2012) A critical Analysis*, 2.

²⁷ Chiara Formichi, *Violence, Sectarianism, and the Politics of Religion: Articulations of Anti-Shi'a Discourses in Indonesia*, Published by: Southeast Asia Program Publications at Cornell University Stable URL: <http://fatwa.jstor.org/stable/10.5728/indonesia.98.0001>, 4

heightened anti-Ahmadiyyah voices, the sharpening of the Sunni–Shi’a dichotomy can be seen to be a reaction to the ousting of Islam from power with the ascension of Megawati Soekarnoputri as the new president of the Republic in 2001.²⁸ Chiara Formichi, an assistant professor at the Cornell University, elaborated that the discourse of anti-shia is a combination of international, national and local dynamics within Muslim society. In her statement, there is a process of *othering*. “*Othering*” is a process of identification of individuals—a visitor or passerby, as well as your neighbor or relative—through characteristics that marks them as intrinsically different from you, and thus potentially dangerous or likely to upset the status quo. The distinction I am making here, by differentiating “a long process of *othering*” from “mere” sectarianism, points to the fact that anti-Shi’a tensions did not emerge out of nowhere due only to “sectarian” differences, but were more deeply rooted in each particular context as “othering” had been taking place on a variety of levels. The process of the anti-shia discourse creates a negative image on Shia. She elaborates the impact on Shia in Indonesia with various actions such as criminalization and stigmatization.

Zulkifli, in his research, investigates the struggle of the Shi’is community in Indonesia.²⁹ The result of his research describes three groupings of Shi’ism. The first group, also the oldest and most eminent, are the people of Arab descent. These people are mainly the Sayyids, who trace their family lines back to the Prophet Muhammad and became the founders of the Shi’i community. In the latter part of the 19th century, Shi’ism attracted more followers among Arabs in the Indonesian archipelago due to the increase in communication between the Hadhramaut and the Malay- Indonesian world.

²⁸ Chiara Formichi, *Violence, Sectarianism, and the Politics of Religion: Articulations of Anti-Shi’a Discourses in Indonesia*, 4.

²⁹ Zulkifli, *The struggle of the shi’is in Indonesia* (Australia: ANU E Press, 2013)

The second group consists of graduates from the *hawza 'ilmiyya*, these are the Shi'i institutions of learning in Qum, Iran. Although a number of Indonesians have studied in Qum prior to the outbreak of the Iranian revolution, this number had increased significantly after the establishment of the Islamic Republic of Iran and an increased interaction between the Iranian government and Indonesian Shi'i 'Ulama.³⁰ The last group is the campus group, made up of mainly graduates from secular universities who have engaged in Islamic gatherings at campus mosques and other religious venues. This group emerged in response to the victory of the Iranian revolution and can be seen as part of an 'Islamic cultural revival' which began on the campuses during the New Order's de-politication of the Muslim society. Zulkifli also elaborated on the Sunni's response to the Shi'is group. In chapter eight he mentions various responses which contain extremely negative responses and moderate responses. The negative responses come from reformist organizations, in particular al-Irsyad, Persis, and individuals and institution linked to them. But the reformist, like Muhammadiyah, had a good relationship with Shi'is leader. While the Nahdlatul Ulama, as a moderate Islam, tends to be accommodative, moderate and more involved in efforts to strengthen practices of the Sunnism group among their own members rather than participating in anti-Shi'i activity. The interesting finding from Zulkifli's research dissertation is that MUI, as Authoritative institution on religious issues, did not actually issue the Fatwa on Shi'is. MUI did issue, however, the 1984 Fatwa more *taushiyah* or recommendation to protect the Sunni Muslim group from the Shi'i teaching, especially for young Muslims on Campus.

The master thesis, written by Muhammad Afdilla, concerns the relation between the religious belief and the politics of local Madura. He highlights the contestation between local religious and political leaders regarding the

³⁰ Zulkifli, *The struggle of the shi'is in Indonesia*, 295-296.

struggle for the local political stage.³¹ However, he does not paid attention to how the Fatwa transforms the public policy and it's impact on the violence.

In other research, Namira Puspendari states “The Increasing Intolerance towards Religious Minorities in Indonesia: Have the existing laws been protecting or marginalizing them?”³² In this research Puspendari highlights the relationship between the state and religious minority groups. In his opinion, the state is still incapable of protecting religious minorities that are a vulnerable group. He investigates the religious minority groups coming from the laws perspective. In her opinion, the state should protect the religious minorities. Puspendari stated that Indonesia that Pancasila (five principle) become the umbrella and basic of the state has been reduced the International human rights law. The reducing with crucial limitations of religious freedom in the Pancasila, the Constitution and national laws, the exercise of the freedom of religion in Indonesia is narrowly limited to six official religions, which are, Islam, Catholicism, Protestantism, Hinduism, Buddhism and Confucianism. Minority religions, including native religions, nearly do not have any space in the society, what completely affects their followers. Puspendari also argues that religious authority like MUI has a contribution on religious persecution on religious minorities in Indonesia.³³ The fact that Indonesia is a Muslim-majority country (nearly 87 per cent), leads to a condition where the Government prefers to put the majority as its priority above others. Followers of other minority religions, including the remaining five official

³¹ Muhammad Afdilla, *Dari Masjid Ke Panggung Politik Melacak Akar-akar Kekerasan Agama Antara Komunitas Sunni dan Syiah di Sampang, Jawa Timur* (Yogyakarta: CRCS UGM, 2016).

³² Namira Puspendari, *The Increasing Intolerance towards Religious Minorities in Indonesia: Have the existing laws been protecting or marginalising them?* (Tilburg, Tilburg University, 2015).

³³ Namira Puspendari, *The Increasing Intolerance towards Religious Minorities in Indonesia: Have the existing laws been protecting or marginalising them?*, 51-52

religions, still face discriminative treatment in exercising their religious rights.

The third clustering is the discourse on Shi'a as dangerous doctrine and the response to them is need. The first literature about this cluster is the book that was written by MUI's team of writers under the title "Mengenal dan mewaspadaai penyimpangan syi'ah di Indonesia."³⁴ This book mentions about the heresy of Shi'a doctrines. The many heresies are the religious heresy on the understanding on the ideology of the originality of the Al Qur'an.³⁵ The heresy of the *ahl al bait al rasul*, and *takfir* on prophet's companions,³⁶ the heresy of Shi'a ideology relates to *takfir* against *Muslim umma*,³⁷ whilst the heresy on the position of the leader (imam) of Shi'a is that he was *ma'shum* (protected from the sin). The other concern of this book is also about the heresy of *nikah mut'ah* (mut'ah marriage). This book also describes about the spreading of Shi'a in Indonesia. Furthermore, it also elaborates about the potentially conflict will emerge between Sunni and Shi'i in Indonesia. This book is very prominent book among Muslim organizations. In my opinion this book is a guidance for Muslim's after the emerging of the Fatwa from MUI at a national level. This book also be a part of distribution and application of the Fatwa MUI in national level to Muslim society.

The same mainstream with above book is the book of Bukhori ma'shum who becomes the chairman of MUI Sampang. His book under the title "*al fawa'id al sunniyah fima yahtaju ilaihi al thalabah al syafi'iyah*."³⁸ This book describes on the Islamic jurisprudence of Shafi'i's school. This book also mentions the dangerous of Shi'a doctrine especially on "*istis'ar*

³⁴ Tim Penulis MUI, *Mengenal dan mewaspadaai penyimpangan Syi'ah di Indonesia*, (Jakarta: FORMAS, 2013).

³⁵ *Ibid.*, 45.

³⁶ *Ibid.*, 53.

³⁷ *Ibid.*, 66

³⁸ Bukhori Ma'shum, *al fawa'id al sunniyah fima yahtaju ilaihi al thalabah al syafi'iyah*, (Surabaya: no name of publisher, 2016).

alfarj” (mut’ah marriage). This doctrine according to Bukhori ma’shum potentially destroys the social system. The ideology, which is a revelation, was received by their saints and not revealed to Prophet Muhammad PBUH. This book also describes about the opinion of Sunni Muslim scholar on Shi’a. I think the Bukhori Ma’shum book is the response to the spreading of shi’i in Sampang and its surroundings. His book also has an introduction by the chairman of MUI East Java Province. The discourse on the dangers of Shi’a is throughout this book.

The discourse on Shi’a also was written by Prof. Dr. Ikhsan Ilahi dzahir under the title “Syiah berbohong atas nama Ahlul Bait.”³⁹ This book describes about who is *Ahlul Bait*. There is a different understanding of Ahlul Bait’s definition between Sunni and Shi’i. According to shi’i, Ahlul Bait is not from the prophet’s family, but is only limited to Ali’s family.⁴⁰ Furthermore, Ali’s family has only a limited number who could be accountable. However according to Sunni, Ahul Bait are all of wives of Prophet Muhammad PBUH, as well as all sons and all family of Prophet Muhammad PBUH.⁴¹ This book highlights about the exclusion of Shi’a. This book paid attention that Shi’a is not the religion which was taught by Prophet Muhammad PBUH. Shi’a believes that the AL Qur’an is not the AL Quran that common Muslim’s own, which was revealed by Allah to Prophet Muhammad through Jibril. This book also highlights that Shi’a is not part of Islamic ideology.⁴²

Mohammad Baharun wrote the other book with an epistemological perspective under the title “epistemology Antagonism Syi’ah.”⁴³ This book studies the issue of Shi’a, the *imamah* doctrine. For a long time, this doctrine has been a

³⁹ Prof. Dr. Ikhsan Ilhai Zhahir, *Syi’ah Berbohong atas nama ahlul bait* (Surabaya: PT. Bina Ilmu, 1987).

⁴⁰ *Ibdi*.xvii.

⁴¹ *Ibid*.viii.

⁴² *Ibid*. xii.

⁴³ Mohammad Baharun, *Epistemologi Antagonisme Syiah* (Malang: Pustaka Bayan, 2004).

controversial issue. The controversy emerged not only internally, but externally to the Muslim majority in general. Shi'a has a double standard on understanding *hadiths*. For instance the *hadiths* that mentions about the privilege of Ali are accepted. But through the same transmitter of *hadiths*, if the transmitters (*rawi*) tell about the privilege of other *sahabat* (other Prophet companions), as the *hadiths* are wrong. That is why the relationship between Sunni and shi'i at the long time in controversy and it be difficult to compromise.

The other opinion from the chairman of MUI at a national level is from K.H. Ma'ruf Amin, in response to the Fatwa against Shi'a in East Java Province. According to Ma'ruf Amin, the position of Fatwa against the Shi'a is important to protect the belief of Muslim society from the influence of a deviant sect. It is also to encourage a social harmony in life.⁴⁴ According to Ma'ruf Amin, after the Iran revolution, it influences young Muslim on campus towards a movement. Ma'ruf Amin stated that the root cause of violence against Shi'a in Sampang is triggered by the different ideology with the Sunni majority in Sampang. The Muslim people in Sampang asked the Ulama and MUI in Sampang. MUI Sampang ask to MUI of East Java Province. MUI of East Java province asked MUI at a national level, as it was MUI of national level that gives the authority to MUI of Sampang regency to issue the Fatwa. Finally MUI of Sampang regency issued the fatwa against Tajul Muluk's teaching that was affiliated to Shi'a. This Fatwa, according to Ma'ruf Amin, was consistent with the general authority of MUI to issue the Fatwa.⁴⁵

The fourth clustering is about the conflict and violence discussion. The first book about the conflict and violence is a book of Jolle Demmers under the title "Theories of Violent Conflict an Introduction."⁴⁶ He elaborates about the Galtung

⁴⁴ The daily news "Republika", 12 November 2012.

⁴⁵ *Ibid.*

⁴⁶ Jolle Demmers, *Theories of Violent Conflict an Introduction* (London: Routledge, 2012)

Theory on violence. He identified three types of violence: manifest, structural and cultural. These forms of violence have a dialectic relation, constantly influencing and legitimizing one another. Manifest violence is an event; structural violence is a process with ups and downs and cultural violence is permanent, remaining largely the same for long periods of time, given the slow transformation of basic culture. In describing how the three types of violence enter time differently, Galtung uses a metaphor from geology: with the earthquake as event, the movement of the tectonic plates as a process and the fault line as a more permanent condition.⁴⁷

The other article that uses Galtung theory is the article of Thomas Santosa. He wrote the article under the title “Kekuasaan dan Kekerasan” (Power and Violence).⁴⁸ He elaborates about the six important dimensions of violence from Galtung. The first is physical and psychological violence, the second is the positive and negative impact of violence. The third is the existing of object or not. The fourth is the existing subject or not, the fifth is with consciousness or not. The sixth is visible or invisible even personl or structural. On the last dismension also Santosa highlights about the manifest of violence or latent violence. The all of violence dimensions help us to dercribe the mapping of violence on several regions in Indonesia including at The Shi`ite community in Sampang.

The handbook that discussed the violence was written by Johan Galtung under the title “Peace by Peaceful Means, Peace, Conflict, Development, and civilization.”⁴⁹ On his book, Galtung describes about the triangle of violence. The triangle violence according to Galtung is the direct- structural and cultural violence. Direct violence can be divided into verbal and physical, and violence harming the body, mind or spirit. All combinations leave behind traumas that may carry violence

⁴⁷ Ibid.,10.

⁴⁸ Thomas Santoso, “ Kekuasaan dan Kekerasan,” *Masyarakat, Kebudayaan dan Politik*, Tahun XIV, Nomor 4, Oktober 2001, 89-102.

⁴⁹ Johan Galtung, *Peace by Peaceful Means, Peace, Conflict, Development, and civilization* (Oslo, Sage Publication, 1996), 1-9.

over time. Structural violence divides into political, repressive and economic, exploitative; supported by structural penetration, segmentation, fragmentation and marginalization. In addition, there is also the horizontal structural violence of being too tightly related, and of being too loosely or even unrelated. Structures can be too dominant (vertical), too tight (horizontal) too much (both/and), and too little (neither one, nor the other). Furthermore Galtung also mentions about the cultural violence. Cultural violence divides by content: religion, law and ideology, language, art, empirical formal science, cosmology (deep culture) and by carriers: schools, universities, and media.⁵⁰

The other article about Johan Galtung on the theory of violence also was written by Linda Dwi Ariyanti. He wrote the article under the title “Pemikiran Johan Galtung tentang Kekerasan dalam Perspektif Feminisme.”⁵¹ He describes the Galtung theory on violence from the feminist perspective. Johan Galtung conception of violence, namely, direct violence, structural violence, and cultural violence was comprehensive enough to observe violence at all levels, including gender-based violence. The issue of violence appeal to feminists because of violence against women is a mechanism of subordination of women. Violence against women has an impact not only for women victims but also women in general. This article found that there are similarities between Johan Galtung thought with numerous streams of feminism that ever existed. Telling about direct violence, Johan Galtung puts women at enmity with men on one hand. On the other hand, the structure and culture of patriarchy that have existed in society also become violent themselves.⁵²

On other article Johan Galtung elaborates more about the cultural violence. He wrote the article under the title “cultural

⁵⁰ Galtung, *Peace bu Peaceful Means*, 30-31.

⁵¹ Linda Dwi Eriyanti, “Pemikiran Johan Galtung tentang Kekerasan dalam Perspektif Feminisme,” in *the Journal Hubungan Internasional* Vol. 6 Edisi 1 / April - September 2017.

⁵² *Ibid*, 1.

violence.”⁵³ Introduces a concept of “cultural violence.”

Cultural violence is defined here as any aspect of a culture that can be used to legitimizc violence in its direct or structural form. Symbolic violence built into a culture does not kill or maim like direct violence or the violence built into the structure. The relations between direct, structural and cultural violence arc explored, using a violence triangle and a violence strata image, with varlous types of casual Rows. Examples of cultural violence are indicated, using a culture into rcligion and ideology, art and language, and empirical and formal science. The theory of cultural violence is then related to two basic points in Gandhism, the doctrines of unity of life and of unity of means and end.⁵⁴

On other book, Johan Galtung describes about the conflict and violence on the same interconnection. He wrote on the chapter of book under the title “Peace by peaceful conflict transformation – the Transcend approach.”⁵⁵ He elaborates the conflict starts objectively, takes on inner, attitudinal life, and finds an outer, behavioural expression, verbally and/or physically, violent, or not. The crosscutting definition between conflict and violence according to Galtung ‘conflict’ and ‘violence’ often stand for the same, for ‘violent behaviour’. With no conflict concept independent of violence, ‘Violent conflict’ becomes an oxymoron. If conflict equals violence, however, then ‘conflict’ is bracketed between outbreak of violence and ceasefire.

On his book, Galtung also mentions about the theory of Conflict. He wrote theory of conflict on his book under the title “Theories of conflict Definitions, Dimensions, Negations, and Formations.”⁵⁶ On his book he mentions about the definition of

⁵³ Johan Galtung, “Cultural Violence,” *Journal of Peace research*, vol. 27, no. 3. 1900, 291-305.

⁵⁴ *Ibid.*,1.

⁵⁵ Charles Webel and Johan Galtung (editors), *Handbook of Peace and Conflict Studies* (USA: Routledge, 2007), 14.

⁵⁶ Johan Galtung, *Theories of conflict Definitions, Dimensions, Negations, Formations*, (Hawai, University of Hawai, 1973).

conflict, dimension of conflict, negations of conflict, and formation of conflict. Galtung defines the conflict as a social system of actors with incompatibility between their goal-states. Galtung also categorized conflicts from the participant of conflict. The categorization of conflicts are derived from the type of actors participating in the conflict: conflicts involving persons, involving groups, or involving societies. This is a typology and not a dimension because we would not generally assume it to be dynamic.⁵⁷

From the above research I investigated, I did not find the specific research about MUI, Fatwa, and violence against Shi'ite minority in Indonesia. Although I found research about Shi'i community but both of them only focus on the particular pattern they did not connect to the emerging of public policy and its relationship on the various violence against religious minorities in Indonesia especially on Shi'a. Furthermore, many of them did not connect to the struggle between the interconnection or disconnection between public policy and Fatwa in local government. The main focus is the role of Ulama in the Sampang regency and East Java Province with the Fatwa, and other religious declarations and public policy.

Based on this literature study, I would like to investigate the difference with the previous research. The difference I illuminate is how the violence occurred? Why did the violence against Shi'a in Sampang emerge? What were the factors underlying the violence? Does the Fatwa take a role in the violence on one side and public policy in other side? The protecting from the state to the religious minority is something interesting to question as the state responsibility among them. Furthermore, Shi'a is vulnerable group be an object of violence. This research will illuminate the connection of MUI's Fatwa, Public policy and violence and how MUI's Fatwa's declaration, application and distribution occurred. MUI's Fatwa will be focused upon the local Sampang regency and its impact on East Java Province.

⁵⁷ *Ibid.* 43.

E. Theoretical Framework

MUI's Fatwa is an Islamic legal opinion that is produced by the mufti (Muslim scholar who gives the Fatwa) at the Fatwa commission, with many other influences behind them. Fatwa deal with matters like exegesis, theological doctrines, eschatology, heresiology, history, Sufi practices, political matters, public morality, etiquette and manners. Before the establishment of MUI, a Fatwa was produced by the personal mufti. For instance, people asks for solving religious problem to personal mufti like K.H. Hasyim Asy'ari or Buya Hamka at that time. However in the current situation, the Fatwa was produced by a collective mufti, such as the MUI Fatwa commission. The statement of Nico J.G. Captein is correct; that Fatwa was transferred from individual mufti to collective or institutional mufti.⁵⁸ In the classic era of Fatwa, personal mufti declared it while in the modern era fatwas are given from collective or institutional mufti, like MUI by the Fatwa commission. This is an interesting transformation on the process of production the fatwas, and the dynamic when the fatwas have been issued.

Since the early establishment of MUI, there are two interests in the political matters of the new order era government. The first interest is that the government would like to accommodate the Muslim interest as the problem solver on religious issues. But on other side, the new order has an interest to monitor and control the Muslim scholars in supporting the government policy at that time.⁵⁹ However the function of MUI

⁵⁸ Nico JG Captein, *The Voice Of The 'Ulama': Fatwa's And Religious Authority in Indonesia*, *Authorités Religieuses en Islam* (Jan. - Mar., 2004), 115-130.

⁵⁹ Mudzhar concludes that the establishment of MUI was part of Suharto's desire to use the power of Ulama to secure his power, whereas with regard to Muslim society, the establishment of MUI could be used by Ulama as means to combat atheism and communism. For further explanation please see Mohammad Atho' Mudzhar, *Fatwa's of The Council of Indonesian Ulama: A Study of Islamic Legal Thought in Indonesia 1975-1988* (Jakarta: INIS, 1993).

is not limited to these 2 objectives, especially after downfall of Soeharto. As Ichwan stated, MUI has realized the power of being perceived as “official”, or “semi-official”, and a “representative” body, despite the fact that it is actually “societal” and “semi-representative”, if not “pseudo-representative”.⁶⁰ It has consciously used their unofficial power to endorse its agendas and interests.

Because MUI’s Fatwas were not issued in a vacuum, to illuminate them on many contexts are important effort. MUI’s Fatwa and public policy are produced for those who have authority. The institution, who has an authority, tend to two possibilities of taking a role. The first possibility is the authoritative role and the second possibility is the authoritarian role. This matches the theory of Fatwa ethics of Khalid Abou El Fadl. The basis of his theory is to measure the fatwas on the five contingencies such as honesty, diligence, reasonableness, comprehensiveness and self-restraint. With his theory, he distinguished the different roles between being an authority and being in authority. This term actually was adopted by Abou El Fadl from the RB. Friedman.⁶¹ Then Abou El Fadl uses his own language with the term “coercive authority” and “persuasive authority.” The first tends to drive another people with influence, to judge, to attack, so with reason people will follow them without any choice. The second involves power, such as the ability to drive people’s belief based on trust. El Fadl tries to distinguish between coercive authority and persuasive authority. Coercive authority is the ability to direct the conduct of another person through the use of inducements, benefits,

⁶⁰ Moch. Nur Ichwan, “The Local Politics of Orthodoxy The Majelis Ulama Indonesia in the Post-New Order Banten,” *Journal of Indonesian Islam*, “Volume 06, Number 01, June 2012, 7. Furthermore Ichwan mentions about the pseudo-representative He stated “It might be considered as “pseudo-representative”, because the procedure of the recruitment of its members from various Muslim organisations is actually informal, and its fatwas and decisions are not automatically binding upon other Muslim organisations.

⁶¹ Khaled Abou alFadl, *Speaking In God’s Name Islamic Law, Authority and Women* (Oxford: One World Publications, 2003), 30.

threat or punishment so that a reasonable person would conclude that for all practical purposes they have no choice but to comply. Persuasive authority involves normative power. It is ability to direct the belief or conduct of a person because of trust.⁶²

Using the Fatwa ethics of Khalid Abou AlFadl is helpful to investigate the issuing of fatwa's. I stated the theory of Khaled Abou el-Fadl of Fatwa ethics because he introduces the five ethics of fatwa's to measure whether the Fatwa tends towards authoritarian or authoritative.

On this position MUI's Fatwa will be examined by using the five contingencies of Abou El Fadl, to provide an evaluation of them on his theory. (As stated, the five contingencies, being honesty, comprehensiveness, reasonableness, honesty and self-restraint.)

The first contingency is honesty. Honesty includes the expectation that people have an objective attitude to their understanding, not necessarily understanding or knowing the problem. In other words, honesty includes the expectation that someone will not pretend to know what he does not know, and will be forthright about the extent of her knowledge and abilities.⁶³

The second contingency is diligence. This attitude assumes that someone makes an effort by inquiry, understands by verifying the problem with text, and also that there is coherent connection between one and another text. The diligence is not easy to be measured. The standard of diligence is an assumption that someone has made a high effort to study and an inquiry of the problem, with a sincere analysis of it.

The third contingency is comprehensiveness. This contingency assumed that someone has tried to analyze all of considerations relevant to the text that is addressing the problem. This understanding is not partial, but tries to analyze between how a text relates with another text. Comprehensively

⁶²Khaled Abou alFadl, *Speaking In God's Name Islamic Law*, 245.

⁶³ Khaled Abou el Fadl, *Speaking In God's Name*, 54.

and diligently investigating the totality of evidence will enlighten us about the motives, dynamics, values, memory and the construction of the reality.

The fourth contingency is reasonableness. This standard is abstractly, but according to El Fadl the truth is correct. In other words, in choosing one's construction, one ought to be cognizant of community interpretation and meaning- one ought to think about whether a particular construction will make any sense to one's relevant community. The parameter of reasonableness is set by what can be called communities of interpretation.

The fifth contingency is self-restraint. Reasonably this attitude tends to self-control and be a pre-condition, with the familiar statement being *wallahu a'lam*.

The five contingencies from Khalid Abou el Fadl are helpful to negotiate and to balance the understanding between the text, the author and the reader. The interpretation should be checked and crosschecked by using many perspectives. MUI's Fatwa's, the special agent who produces the fatwa's and the Muslim community, including the government, are three aspects that are interconnected to each other.⁶⁴ This theory actually tends to make sure the Fatwa ethics are implemented by the Fatwa commission when they issue the Fatwa. Is the Fatwa commission proper with the Fatwa ethics of khaled abou el-fadl or not? From this, we could analyze the Fatwa against Shi'a whether it tends to be authoritarian or authoritative at the same time.

Theory of fatwa defines the *Fatwa* terminologically on many meanings. For instance, Saiyad Nizamuddin Ahmad defines the *fatwa* as an "opinion of Islamic law (Shari'a) issued by an expert scholar with specialized training upon the request of one or more questioners - about real or hypothetical situations."⁶⁵ Other Islamic scholars (*faqih*) such as Wahbah

⁶⁴ Khaled Abou El Fadl, *Speaking In God's name*, p. 54

⁶⁵ Saiyad Nizamuddin Ahmad, *Fatwa of Condemnation and the limits and dissent*, (Malaysia: International Islamic University Malaysia, 2006), 61.

Zuhaily mentions how the *fatwa* is the response to questions of Islamic law without being legally binding.⁶⁶ According to western scholar Joseph Schacht, the *fatwa* is a formal legal opinion.⁶⁷ In his book, Hooker elaborates on the *fatwa* as being a formal advice from those who have authority on some problem of Islamic law or dogma.⁶⁸ The *fatwa* is given to respond to a question. In the same definition Nico J.G Kaptein also has the same terminology that *fatwa* is an important instrument through which the '*ulamâ*' express their authority.⁶⁹ According to Louis Ma'luf in his dictionary, a person who gives the *fatwa* is called by *Mufti*. *Mufti* refers to *al faqih al ladzi yu'thi alfatwa wa yajibu amma ulqiya 'alaihi min al masa'il al-muta'alliqati bi al-shari'ah*, meaning the religious expert, or *faqih*, who gives the *fatwa*.⁷⁰ *Fatwa* is the meeting point between legal theories and social practice.⁷¹

Actually, *fatwa* is not only meant to respond to religious problems, but also to give solutions in all contexts, such as political, economic, ideological and other issues surrounding Muslim society in Indonesia. In this sense, *fatwa* is the interaction between the *mufti* and community of political, economical, cultural and its surrounding that give a solution for a social dynamic in society.⁷² Based on the previous terminology of *Fatwa* I could create a common definition of *fatwa* using at least three characteristics. Firstly, the *fatwa* is an

⁶⁶ Wahbah al-Zuhaily, *al-Fiqhu al-Islami wa Adillatuhu*, the first edition (Beirut : Dar al-Fikr, 2004) , 35.

⁶⁷ Joseph Schacht, *An Introduction to Islamic Law* (London : Oxford University Press, 1965), 74

⁶⁸ M.B. Hooker, *Indonesian Islam Social change through contemporary fatawa*, (Honolulu: Allen & Unwin And University Of Hawai'i Press Honolulu, 2003), 8.

⁶⁹ Nico J.G. Captein, The Voice Of The '*Ulamâ*' : *Fatwas And Religious Authority In Indonesia*, (janvier-mars 2004) 115-130.

⁷⁰ Louis Ma'luf, *Al-Munjid fi al-Lughah wa al 'lam*, 529.

⁷¹ Alexandre Caeiro, "The Shifting Moral Universe of the Islamic Tradition of Ifta': A Diachronic Study of Four Adab al-Fatwa Manuals," *The Muslim World*, 96, (October 2006), 661-685.

⁷² Muhammad Atho Mudhar, *Islam and Islamic Law in Indonesia : A Social Historical Aproach* (Jakarta : Departemen Agama RI, 2003), 93

effort to respond to problems with a law for a society. Secondly, *fatwa* is given by the *Mufti* about the Islamic law through *ijtihad* (process of man discovering law). Thirdly, the person or the institution needs clarification on the Islamic has a response given by *Mufti*.

According to Luthfi Assyaukani there are two reasons why *fatwa* still has influence over Muslim society, despite it not being legally binding. The first reason is that *fatwa* is a sacred statement based on revelation. Muslim people would like to consider the *fatwa* as important because it relates to their heart commitment to religiosity, and secondly because the *fatwa* is produced by an authority, such as a Muslim scholar in MUI. Because of this fact, Muslim people, especially in Indonesia, follow the *fatwa*'s instruction.⁷³ Interestingly, although the *fatwa* in Indonesia is not legally binding, it becomes a reference for many stakeholders, especially the government when conducting public policy.

The public policy of the government oftenly was be issued by considering the *fatwa*. It because the public policy according to anglo-saxaonis theory, public policy is the result of the product of political democracy. The short definition public policy, at least according to James P. Lester, is the process or all of the decisions/activity of those designated by the government to solve a public problem, even if it was real or still in the process of being planned. Based on the definition, public policy is the decision that was designed by one who has authority. The decision has public orientation that we can see by considering its impact on society, through action or inaction.⁷⁴ The public policy that is produced by the government is meant to solve problems.

To analyze both the public policy and law, at least there are two methods to clear up and distinguish the relationship

⁷³ Luthfi Assyaukani, *Fatwa and violence in Indonesia*, *Journal of Religion and Society* Volume 11 (2009), 16.

⁷⁴ Riant Nugroho, *Public Policy*, (Jakarta: Gramedia PT Elek Media Komputindo, 2008), 11

between them. The first method is how to know about the content of policy and the second method is on how public policy is produced and implemented in society. More than the difference between the methods is the ability to differ between law and public policy, of which there are two approaches to compare their connection. The first is the Continentalist school and the second is the Anglo-Saxonist school.⁷⁵ The Continentalist school hold the view that public policy is a derivation from law, while the Anglo-Saxonist hold the view that public policy is the derivation from political democracy and the interaction between the State and public. The existence of public policy can be manifested by law, convention, and agreement or sometimes even by word or deed of the public actors. If we look at the process of the creation of public policy, the government, or an entity that has authority that the citizen accepts as legitimate commonly drafts law. On the other hand, the Anglo-Saxonist school argues that public policy is a democratic political process, in these terms policy could actually be defined as a governmental instrument, that meaning not only government (specifically the state apparatus) but also general governance, including all of the non-governmental institutions and all of civil society.⁷⁶

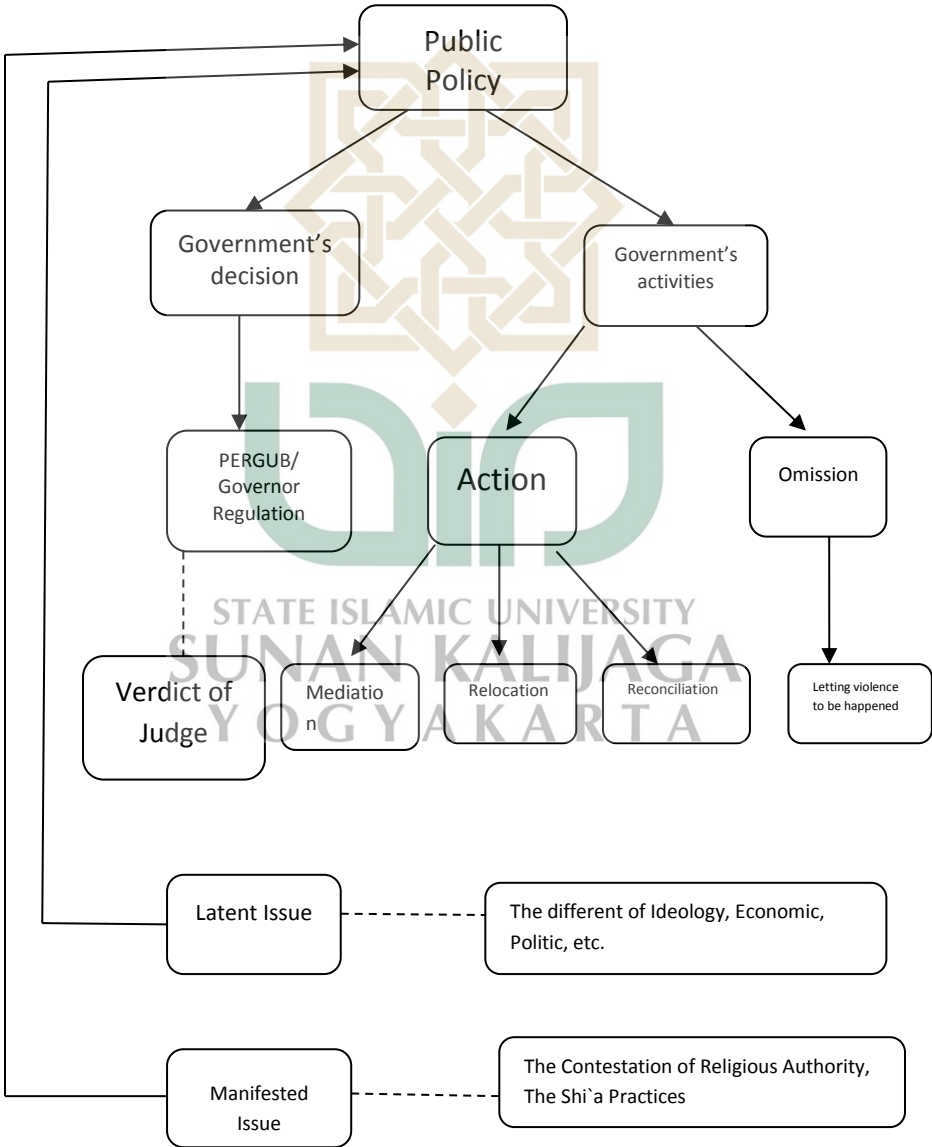
I use the roadmap of production of public policy on the discourse on Shi'ite in Madura as below:

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⁷⁵ For further explanation see Riant Nugroho, *Public Policy*, (Jakarta: Gramedia PT Elek Media Komputindo, 2008), 11

⁷⁶*Ibid*, 23.

THE MAP OF CATEGORY OF PUBLIC POLICY



To capture the data, relating to the conflict and violence I will utilize the main theory of Galtung about the triangle of violence. Galtung wrote on his book under the title “Peace by Peaceful Means, Peace, Conflict, Development, and civilization.”⁷⁷ On his book, Galtung describes about the triangle of violence. the triangle of violence according to Galtung is the direct- structural and cultural violence. Direct violence can be divided into verbal and physical, and violence harming the body, mind or spirit. All combinations leave behind traumas that may carry violence over time. Structural violence divides into political, repressive and economic, exploitative; supported by structural penetration, segmentation, fragmentation and marginalization. In addition, there is also the horizontal structural violence of being too tightly related, and of being too loosely or even unrelated. Structures can be too dominant (vertical), too tight (horizontal) too much (both/and), and too little (neither one, nor the other). Furthermore Galtung also mentions about the cultural violence. Cultural violence divides by content: religion, law and ideology, language, art, empiric all formal science, cosmology (deep culture) and by carriers: schools, universities, media.⁷⁸

The conception of violence according to Galtung is fruitful to analyse the conflict between Sunni and Shi`ite minority in Sampang. Through the triangle of violence namely, direct violence, structural violence, and cultural violence was comprehensive enough to observe violence at all levels, including the conflict in Sampang, Madura. The cultural

⁷⁷ Johan Galtung, *Peace by Peaceful Means, Peace, Conflict, Development, and civilization* (Oslo, Sage Publication, 1996), 1-9.

⁷⁸ Galtung, *Peace bu Peaceful Means*, 30-31.

violence⁷⁹ according to Galtung actually take important role because the cultural violence according to Galtung was defined by any aspect of a culture that can be used to legitimize violence in its direct or structural form. Symbolic violence built into a culture does not kill or maim like direct violence or the violence built into the structure. The relations between direct, structural and cultural violence are explored, using a violence triangle.

However, Galtung in other term identified three types of violence: manifest, structural and cultural. These forms of violence have a dialectic relation, constantly influencing and legitimizing one another. Manifest violence is an event; structural violence is a process with ups and downs and cultural violence is permanent, remaining largely the same for long periods of time, given the slow transformation of basic culture. In describing how the three types of violence enter time differently, Galtung uses a metaphor from geology: with the earthquake as event, the movement of the tectonic plates as a process and the fault line as a more permanent condition.⁸⁰ The highlight about the Galtung theory could be stated that Violence can start at any corner in the direct-structural-cultural violence triangle and is easily transmitted to the other corners. With the violent structure institutionalized and the violent culture internalized, direct violence also tends to become institutionalized, repetitive, and ritualistic.⁸¹

The interconnection between conflict and violence according to Galtung 'conflict' and 'violence' often stand for the same, for 'violent behaviour'. Galtung defines the conflict as a social system of actors with incompatibility between their goal-states. Galtung also categorized conflict from the participant of conflict. The categorization of conflicts are derived from the type of actors participating in the conflict:

⁷⁹ Johan Galtung, "Cultural Violence," *Journal of Peace research*, vol. 27, no. 3, 1990, 291-305.

⁸⁰ Jolle Demmers, *Theories of Violent Conflict an Introduction* (London: Routledge, 2012), 10.

⁸¹ Johan Galtung, *Peace by Peaceful Means*, 208.

conflicts involving persons, involving groups, or involving societies. This is a typology and not a dimension because we would not generally assume it to be dynamic.⁸²

The conflict between sunni and shi'ite in Sampang appropriates by using the Galtung theory. Because the conflict is very complicated enrolling multi-actor of conflict. The triangle of conflict according to Galtung also gives the roadmap about it. He categories with A (Attitude/ Assumption), B (Behaviour), and C (Contradiction).⁸³ Both of them could be categorized by the manifest level (Empirical, Observed, Conscious) and latent level (Theoretical, inferred, subconscious). The conflict of Sunni and Shi'ite in Madura also could be investigated by categorizing the manifest level and latent level.

To support the research based on the data, I also would like to utilize the supporting theory of Norman Fairclough. The critical discourse analysis from Norman Fairclough, especially from his book "Discourse and Social Change, Cambridge, Polity Press, 1992".⁸⁴ But I would not like to use this theory of critical discourse analysis completely, but only a part that is relevant for the issuing of MUI's Fatwa's, the application of MUI's Fatwa and the distribution of MUI's Fatwa's.

The Theory of CDA Norman Fairclough was combined with the interpretation of the Fairclough CDA by Frans Wijzen, who is the professor of religious studies at Radboud University, the Netherlands.⁸⁵ Fairclough's seeks to theorize the concept of

⁸² *Ibid.*, 43.

⁸³ Johan Galtung, *Peace by Peaceful Means*, 72.

⁸⁴ Norman Fairclough said on his book that "discourse is shaped by relations of power and ideologies, and the constructive effects discourse has upon social identities, social relations and systems of knowledge and belief, neither of which is normally apparent to discourse participants." For further explanation please read Norman Fairclough, *Discourse and Social Change* (Cambridge, polity Press, 1992), 12. On the wirting of Critical Discourse analysis I use its acronym of this term to make easier with "CDA".

⁸⁵ I join the several meetings of frans Wijzen courses on Critical discourse analysis at Radboud University at the Netherlands. Frans Wijzen is the professor of Religious studies at the university who concerns on linguistic as

discourse by combining several traditions, namely linguistics, interpretive traditions, and sociology. In his theory, Fairclough offers a model of discourse which contains three dimensions, namely text, discursive practice, and social practice. Each of these dimensions has its own territory and process, with all three are dialectically related. The first dimension of text is the result of the production process. The second is discursive, related to the interaction of text with individuals or society in the form of the production processes and interpretations. The third dimension is social practice or context that includes socio-cultural practices where the production process and interpretation takes place. The explanation is used to analyze socio-cultural practices that cover levels situational, institutional, and social.

The CDA of Fairclough theory actually appreciates the Foucault theory that stated the power relation embedded in the production of discourse. On the other hand, Fairclough criticizes the constitutive meaning that is close to social transformation.⁸⁶

This research combines the theory of Galtung theory on the triangle of Violence as the main theory and also the Galtung theory of conflict. The supporting theory will utilize the critical

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analysis. CDA actually its basic is linguistic. But CDA consider the social issue and its surrounding constitute the text. According to Frans Wijzen CDA could be understood by the discourse and social practice. Both of them are in dialectic relationship. The process of discourse through three level text production, text distribution and text consumption. Both of them have three levels. The levels are micro, mezzo and macro level. Short course was held by the Radboud University at Desember 2016.

⁸⁶ Elya Munfarida: Analisis Wacana Kritis dalam Perspektif Norman Fairclough in the *journal Komunika*, Vol. 8, No. 1, Januari - Juni 2014, 2-3.

discourse analysis by Norman Fairclough⁸⁷ and the Fatwa ethics of Khaled Abou El Fadl's theory.⁸⁸

The CDA theory especially will utilize to capture the fatwa and public policy and the role of violence against shi'ite minority in Sampang. The key of CDA is the focus upon 'the dynamics of power, knowledge, and ideology that surround discursive processes. The key terms for CDA are ideology and hegemony. Critical discourse analysis is fruitful to understand more about the text including the fatwa and public policy from many aspects especially from the production, distribution, and consumption of the discourse. The part of the procedure which deals with the analysis of texts can be called '*description*, and the parts which deal with analysis of discourse practice and with analysis of the social practice of which the discourse is a part can be called '*interpretation*'.⁸⁹

Concerning the Critical discourse analysis, Fairclough said that subjects are ideologically positioned, but they are also capable of acting creatively to make their own connections between the diverse practices and ideologies to which they are exposed, and to restructure positioning practices and structures'.⁹⁰ I adopt the Fairclough theory on Critical Discourse Analysis that pays attention to three levels of analysis, being the production level, distribution and consumption. By using this theory, hopefully many aspects of production, distribution and consumption the fatwa's will be explored.

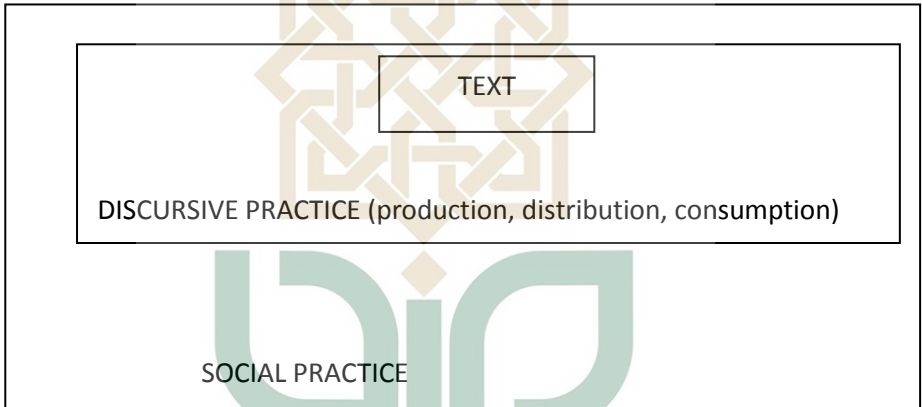
⁸⁷ Norman Fairclough, *Discourse and Social Change*, 73. Norman Fairclough said on his book that "discourse is shaped by relations of power and ideologies, and the constructive effects discourse has upon social identities, social relations and systems of knowledge and belief, neither of which is normally apparent to discourse participants." For further explanation please read Norman Fairclough, *Discourse and Social Change*, (Cambridge: Polity Press), 1992, 12.

⁸⁸ Khaled Abou alFadl, *Speaking In God's Name Islamic Law, Authority and Women* (Oxford: One World Publications, 2003), 245.

⁸⁹ Norman Fairclough, *Discourse and Social Change*, UK: Polity Press, 1992, 73.

⁹⁰ Norman Fairclough, *Discourse and Social Change*, 92.

Concerning the CDA theory of Fairclough, there are three elements of discourse, as in the table and description below:

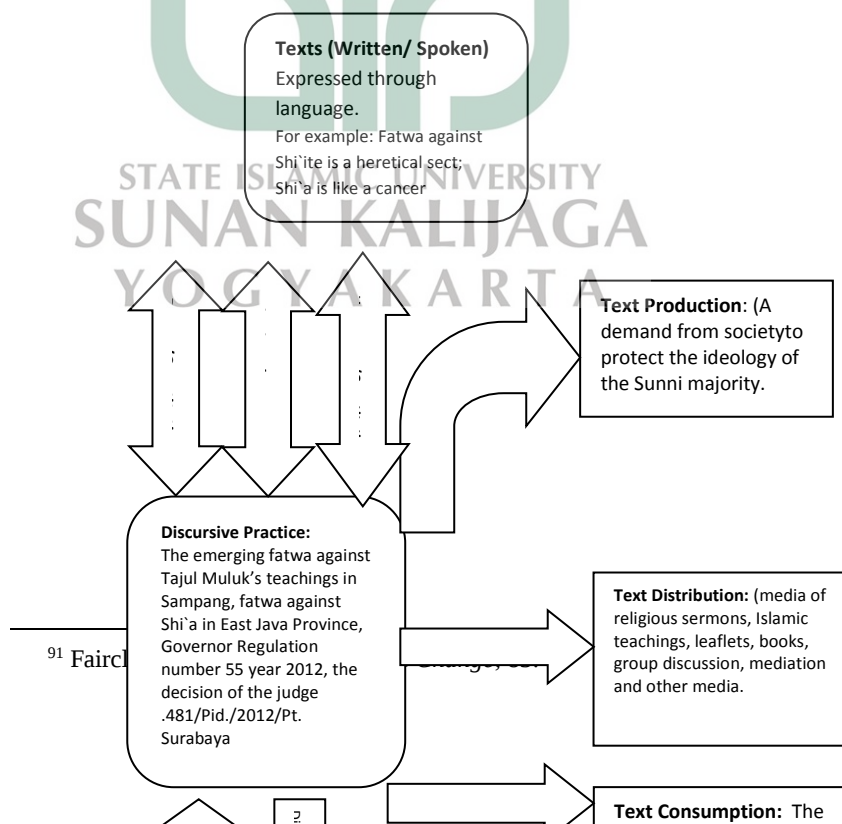


The first dimension is text which is the result of the production process. The second is discursive practices related to the interaction of texts with individuals or communities in the form of production processes and interpretations. The third dimension is social practice or context that includes sociocultural practices in which the production process and interpretation takes place. These three dimensions are then analyzed with three different analysis models. Description is used to analyze text. Interpretation is used to analyze the production process and interpretation of the text. The explanation is used to analyze sociocultural practices that include situational, institutional, and social levels.

In his theory of CDA, Fairclough mentions about the kind of interpretation of text that is made up of past discursive practice, condensed into conventions, that is endowed with meaning potential. The meaning potential of a form is generally heterogeneous, a complex of diverse, overlapping and sometimes contradictory meanings (see Fairclough 1990a), so that texts are usually highly ambivalent and open to multiple interpretations. Interpreters usually reduce this potential ambivalence by opting for a particular meaning, or a small set of alternative meanings.⁹¹

Based on the above picture, I would like to use a part of the CDA theory to analyze MUI's Fatwa, and public policy for the context of a discursive practice, including the process of the production of a Fatwa, the process of consumption of a Fatwa and the process of distribution of a Fatwa. The CDA theory as a social practice involves processes of text production, distribution, and consumption, and the nature of these processes varies between different types of discourse according to social factors.

To capture the problem on this research, I will analyse by using the roadmap as flowchart below:



The above roadmap mentions us about how discourse and social practice are interconnected through discursive practices. The discursive practice includes the process of production, distribution and consumption of the discourse. The ideology, power, and hegemony are in the dialectic on the formulation of discourse.

CDA Theory is based on the post-structuralist aspects of flexibility in structuralism which see language not as a given, but that can change because it is the result of social conventions. On that basis, the existence of language is considered to be loaded with motives of power and interests of certain social groups. Therefore, language is not neutral, but is biased and sided with certain ideologies and powers. As a result, reality constructed by language is not seen as an actual reality, but a constructed reality (the reality).

On the position of the structural violence that supported by the who has an authority, there is a structural violence, as mentioned by Johan Galtung. According to him, religion, ideology and knowledge could become a justification for violence against a religious minority directly or indirectly as the above description.⁹²

F. Method

This research is a qualitative research. This research combines the literature study with empirical investigation. In order to focus on this research, this study took a case study of the Sampang, Sunni-Shiite conflict in Madura. Case studies at these locations were chosen because they have become a global attention and there has been no meaningful solution until today. The variables to be seen in this study are MUI as an institution that produces fatwa, fatwa as a product of MUI as well as violence that occurred in Sampang. The approach in this study uses the concept of conflict and violence put forward by Johan Galtung with the concept of triangulation of violence namely

⁹²Johan Galtung, *Studi Perdamaian: Perdamaian dan Konflik Pembangunan dan Peradaban*, 432.

direct violence, indirect violence and cultural violence. As for looking at fatwas and their influence on public policy, the theory of critical discourse analysis Norm Fairough is used to look at this issue.

As combining literature and field research, the source of data in this study is a combination of library data and field data. Literature data is obtained by researching and examining in depth a number of books, journals, research reports and the like that are related to the theme of MUI, fatwa and violence against the Shi'i community in Indonesia. While field data were obtained by focusing on case studies of conflict and violence that occurred between Sunni-shi'i in Sampang Madura. As a research subject, institutions such as MUI are the main focus. Other institutions such as FPI, KESBANGPOL, NU, KEMENAG and similar institutions are the focus of supporters.

The technique of collecting library data is done in the first way, information seeking with experts in the field of study about MUI, fatwas and violence against the shi'i community. After obtaining information from discussions with experts in the field, the second step is to search for relevant library data through credible journals and books. After I found sources from journals and books as well as other credible sources, then I validate the three by discussing and comparing with other relevant sources. After that the fourth step is to conduct an in-depth study by reflecting on the various sources obtained.

The field data collection techniques were carried out by means of observation, interviews and documentation. Observations were made by visiting sites directly in Sampang and in Sidoarjo where the conflict and violence occurred. The depth interviews were conducted with key informants both from their respective representatives. Among those interviewed included the chairman of the MUI, the Chairperson of the Shi'ite community, FKUB, FPI, the Head of the Islamic Boarding School, the Head of KESBANGPOL, Social Services, PCNU, Journalists, Community Leaders, Shi'a residents and others who were relevant. Interview technique is done by digging data

through questions prepared from the formulation of research problems. In selecting respondents (informants) the study used sampling techniques (purposive sampling).

The documentation is archived by taking photographs and recording the results of interviews as well as images and data obtained during the observation.

While the research data analysis technique is done by examining all available data from various sources, both from literature sources and from field sources from interviews, observations and documentation. After the data collected is then analyzed and compared with other data, then all of it is interpreted and then conclusions are given. In drawing conclusions using an induction framework so that the writing is based on empirical evidence, but also done in deduction so that the results of the writing have a broader meaning.

In finishing the writing process I use the first step through the description, namely by describing all the data as it is both from the literature and the field. Then the second step is to make comparisons with other supporting data. The third step is by interpreting the results of the description and comparison of some existing sources. The final step is drawing conclusions from the results of exposure that have been obtained from the previous description.

G. Structure of Dissertation

To capture all the aspects of this research, the chapters will be systematized for study about MUI, Fatwa, and Violence against Shi'ite minority in Sampang, Madura. The chapter and other chapters are interconnected in a discussion concerning these topics. The first chapter is an introduction, which includes the historical background, research questions, aims and objectives, previous research (literature review), the theoretical framework and method.

The second chapter will study about the MUI. This chapter also will investigate the historical background of MUI, State and Authority. This chapter includes how the process of MUI

produces the Fatwa. In the third chapter I will elaborate about the MUI Fatwa. This includes the interconnection and the dialectic between a MUI Fatwa on a Local and National level especially in East Java Provinces. This chapter also will capture on the interconnection between fatwa and public policy.

The fourth chapter will describe about violence against Shi`ite minority. This chapter also will describe the history of both Shi`a in Sampang and its relationship with others. Included in this chapter is the relationship between the minorities and the majority in Sampang. The social interaction between Sunni and shi`i will be captured in this chapter. This chapter will observe several incidents of violence against Shi`a in Sampang and Sidoarjo. The forms of violence against Shi`a are stigmatization, discrimination, persecution and blasphemy. In this chapter, we will detail the derivative violence, as well as the forms of violence. The forms of violence are symbolic violence, structural violence, sociological violence, ideological violence, as well as other forms.

The fifth chapter will focus on the impact of violence. It will include how the Shi`a in Sampang and in Sidoarjo faced violence, and its dynamic interaction in the refugee camps. The sixth chapter is the conclusion, which will be taken from the research question by considering the data analysis and facts and supporting data. The conclusion represents the findings and result of the research and recommendations.

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CHAPTER VI. CONCLUSION

A. Conclusion

The violence against the Madurese Shi'ite is interconnected with the social interaction through the discourse and social practice of the relationship Sunni-Shi'ite at a micro (family level), mezzo level (Province level), and macro level (global context). The conflict and violence was started from family to province level. The family conflict between Tajul Muluk and Roisul Hukama becomes the wider conflict in sampang society. The conflict involves between local religious leaders such as Kyai Makmun, Tajul Muluk those affiliated by Shi'i, and Kyai Ali Karrar Shinhaji that sunni's representation.

Beside the family conflict, the contravention among them emerged after Tajul reformed the religious and social traditions in Sampang based on his teachings that differ from the mainstream teaching of the Sunni society. The Sampang society was constructed by "*three triumvirates*," religious authorities, state authorities, such as *Babho-Bhuppa*, *Guruh*, and *Ratoo* (the parents, the Ulama, and the State apparatus). The submission of the Sampang community towards the three figures affected speech, actions and public policies issued by them.

The emerging of violence was catalyzed by many factors. The first factor is the difference in ideology. The Sunni and shi'i are in contestation, competition, and counteraction. The counteraction creates the conflict and violence such as discrimination, marginalization, exclusion and other forms of violence. The second factor is the socio-political and economic factor. The political factor is part of violence, because there is contestation between social and local government leaders who feel disturbed by the reformation of Tajul regarding the administrative business in local Sampang, such as the administrative letter that charges a fee for public services. The *blater* who becomes the "social broker" cooperates with the social leaders in Sampang to counteract Tajul's work. The

economic factor of violence emerged because local religious leaders in Sampang were uncomfortable with Tajul Muluk's actions through the reformation of religious tradition in local Sampang such as the maulid tradition, tahlilan and other traditions which financially support the local clerics in Sampang by giving the clerics a "fee", called *bisyaroh*. The psychological factor also emerged, because the Sunni felt social jealousy and felt threatened by the minority because of the growth of Tajul Muluk's followers. The family factor also influenced the emerging of conflict and violence, because the internal family of Makmun is split into two groups. The first group is affiliated with the Sunni whilst Tajul, Iklil and others are affiliated with Shi'i. The different ideologies among them spread widely and increased to higher levels in its social surroundings.

The religious authority, through the fatwa of MUI in Sampang regency, takes a role on the formulation of discourse on Shi'a in Sampang society. According to the Fairclough theory, discourse and social practices are interconnected in a dialectical relationship. Discourse is not only the text of the fatwa and public policy, but also are a part of discourse on the knowledge of the shi'a in Sampang. The fatwa's and the public policy's production, consumption, and distribution are part of the discourse and social practices.

According to Khaled Abou el-Fadl's theory, the fatwa that was produced by MUI could not be separated from the individuals who produces the fatwa. A mufti of MUI is an important figure on declaring the fatwa. The Ulama and MUI are the important parts that affect the social interaction between Sunni and Shi'i in Sampang. There was a shifting paradigm of MUI after a new order era from the servant of *Umara'* (*khodimul hukumah*) to the servant of Muslim people (*khodimul umma*). The fatwa is more independent from the state. The other paradigm of MUI is to strengthen the weak and to weaken radicals. On this paradigm there is a contestation between orthodoxy and heterodoxy that exists at national and local levels even now.

The mainstream of the Ulama of MUI, including in Sampang regency, tends to be puritan rather than a liberal and moderate religious mainstream. The impact of this mainstream paradigm is the fatwa is more puritan and conservative rather than tolerant of many different of ideologies in society, contrary to a society based on pluralism. The fatwa tends to be “coercive” rather than ‘persuasive’. The pressure and despotism of the fatwa potentially occurs “for the importance of the security of ideology” in Sampang society.

On the perspective of Khaled Abou el-Fadl’s fatwa ethics, such as honesty, diligence, reasonableness, self-restraint, comprehensiveness, the fatwa against Shi’a tends to dissatisfy all of the fatwa’s ethics. Because the power used for the issuing of this fatwa constitutes a domination of a discourse of anti-Shi’a as a heretical sect and as a propagator of religious blasphemy. The discourse looks for the justification in formal regulation through the public policy and product of law.

Discourse on Tajul Muluk as a heretical sect was produced by MUI of Sampang regency. The redaction of the fatwa of MUI in Sampang avoids the term of Shi’a to localize the problem only in Sampang, so not to implicate other regions of Sampang. However the impact of the fatwa impacted from local to the province. Why did MUI in Sampang regency produce the fatwa? It was produced by MUI in Sampang regency for four reasons. The first reason is for protection of the majority, the Sunni society from Tajul Muluk’s teachings, which are affiliated with Shi’a, considered a heretical sect that has primary differences with Sunni teachings. Tajul Muluk’s teachings, according to the chairman of MUI Sampang, is like cancer in the human body. The cancer should to be removed, so that it does not grow and harm other parts of the body. The second reason is to protect the Sunnis from the ideology of “Imamah”. The concept of Imamah that Tajul Muluk agrees with, is a dangerous ideology, because it could be potentially rebel against the official government. The third reason is a response to the local government of Sampang ,the problem being that Tajul Muluk’s teaching

causing conflict amongst them. The fourth reason is to realize the religious harmony life in the Sampang community.

The fatwa was issued towards Tajul Muluk's teachings, because of both primary reasons that exist due to the tension it created in social interaction between the Sunni and the Shi'i, and the factor of Tajul Muluk as person who teaches and spreads his doctrine in Sampang. In addition, the relationship between Shi'i and Sunni in Indonesia was unstable due to social, economic and political conditions in each regions. Tajul Muluk, as the local religious leader in Sampang, became a new challenge for the local religious and social leaders in Sampang. Actually, Tajul Muluk, being affiliated with the Shi'a, was not an issue among Sampang clerics when his teaching was only for him. But he openly teaches his doctrine to other Sunnis in his vicinity. Furthermore, Tajul Muluk did not only reform religious traditions in local Sampang, but also the local beureaucracy system of public services.

In addition, there are statements of Tajul that could have offended the Kyai such as the term: "Kyai envelope". Such statements angered the residents where the clerics in the Sampang community held a highly respected position. In return, Tajul and his followers suffered the consequences, because Tajul had offended a respected person. The situation worsened due to the internal conflict of the Kyai Ma'mun family between Tajul and Roisul Hukama who later turned their back on Tajul. Roisul seems to be the new "enemy" for Tajul at the micro-level, who turned into a "wild bull" and then advanced to the mezo level, namely at the district and provincial levels.

The issuing of the fatwa in Sampang regency was triggered by many factors. The conflict of family between Tajul and Rois increases to higher conflict that enrole the ideology conflict. The first factor is difference in ideologies. This factor is the primary factor for the issuing of the fatwa. The difference in ideologies creates the "othering" factor amongst the Sunni society, in Sampang in particular, and in East Java in general, causing a split in society. Exclusion of those who differed from

the Sunni occurred by constructing the mindset “We” for the majority and “They” for minority. The implication of this framing is cultural and structural, causing such things as discrimination, marginalization, prejudice, stereotyping, persecution, relocation, and other forms of violence. The other factor are the economic and political factors. The evidence of this economic factor is the emerging term “Kyai envelope” that was used by Tajul Muluk. This statement angered the Sampang society. The other evidence is Tajul’s reformation of religious tradition such as “maulidan”. Economics and politics are interconnected especially in the effort of reformation, with the local government managing correspondence and licensing through a village government. The political factor also contributed to the demand of the government to issue the fatwa. The other factors are the social jealousy and psychological factors. The increase in Tajul’s followers made the local clerics feel less power in their religious authority.

The fatwa becomes a religious instrument to exclude the Madurese Shi’ite from Sampang society. Tajul Muluk was sentenced by the state court to two years in prison for religious blasphemy is the evidence that the fatwa of MUI Sampang regency was a religious instrument that was justified by the local government. When Tajul Muluk proposed this issue to the higher state court of East Java province, the judge sentenced him to four years in prison. The evidence based of the interconnection between the fatwa of Sampang regency becoming public policy is the content of the fatwas (in Sampang regency level and in East Java Province level), which recommends the local government to issue the public policy for regulating the Shi’a. The local government of East Java province response of both fatwas was to regulate the Shi’a through governor regulation number 55 of 2012, concerning *Tentang Pembinaan Kegiatan Keagamaan dan Pengawasan Aliran Sesat di Jawa Timur* (the supervision of religious activity and monitoring on heretical sects in East Java).

A Fatwa is an Islamic legal opinion that is morally binding, whilst the public policy is the decision or action that is made by those in Political authority (government) that is legally binding. The transforming of fatwa from morally binding to legally binding because it often includes the appeal or recommendation for the government to issue the public policy. In the case of Shi'a in Sampang and Sidoarjo, the fatwa also appeals and recommends local governments both in Sampang and East Java province to declare the public policy against Shi'a. To respond to the fatwa on both levels, the government supported the Local Government. The Sampang government accommodated the fatwa through the state court of Sampang regency's decision to sentence Tajul Muluk as the propagator of religious blasphemy, with two years in prison, supported by the higher state court in East Java province. The fatwa of MUI in Sampang regency became the consideration to issue the verdict against Tajul Muluk, with the East Java government applying the fatwa on its level through the governor regulation number 55 of 2012. This regulation offers the authority on each religion, including MUI, to decide which religious teaching is heretical or not.

I conclude that religious authority and state authority needed each other for this to be enforced. This reason is due to the culture of the East Java community, especially the Sampang Madura District. For example, the Kyai occupies a very strategic position, but the clerics were limited in their power in the context of the law. The Kyai also needed a ruler to ensure that the Kyai's will with his followers could be accommodated by the state. Simultaneously, the state in making policies requires legitimacy from the community. The Kyai has a strong base of legitimacy in the community which often becomes the government's reference in making government policies. When the will of Kyai as the holder of religious and social authority has been accommodated by the government as the authority of the state through the establishment of public policies that are binding on all citizens, *this is what I call the positivisation of fatwas in public policy.*

The impact of the state support for the interest of majority is that the minority will be excluded from the society. The impact of this exclusion for the minority is marginalization and discrimination on all aspects of life. The relocation of them is an example of exclusion, being exiled from their motherland. They were removed from their social roots of original culture and society. When the state and religious authorities cooperate with each other, rather than committing structural violence against a minority, they could protect the minority.

I conclude that State position is on the dilemma position. Between protecting the minority and accommodating the majority. Between co-existence and exclusion on Shi'ite Sampang. The situation from the co-existence in Sampang, Madura of Tajul Muluk and his followers to relocate to Sidoarjo that was designed by the State. this dilemma makes them were not protected by the State, instead exiled from their motherland. The impacts are they lost their daily livelihood in their village, They were secured temporarily in a refugee camp as displaced people in "Puspo Agro" Sidoarjo. It is uncertain and unclear regarding the time limit within this camp, and the plan for the future. A process of reconciliation amongst them and the Sampang residents was endorsed by the government. But the efforts still have been a struggle until now for Tajul Muluk and his followers to relocate from Sidoarjo to Sampang. The condition is what I referred to as "the dilemma position of State."

However, the fatwa of MUI Sampang regency becomes the religious instrument to marginalize and to criminalize Tajul Muluk. MUI of Sampang regency were the "police of ideology" to protect and to secure the ideology of Sunni society from the influence of Tajul Muluk's teaching. MUI of Sampang regency gave the analogy of Tajul Muluk's teachings by calling his teachings like a cancer of the body of human body. They argued that Tajul Muluk's teachings could not be tolerated, because it will destruct the social system in Sampang, Madura. Tajul's teachings are called cancer, because it will spread to other parts of the body and destroy the entire body.

Based on this argument, the majority feels under threat since Tajul Muluk's teachings are spreading. Furthermore, the concept of *imamah* in Shi'a doctrine is potentially a dangerous teaching. It potentially rebels against the official government. The movement of Tajul Muluk in Sampang by spreading such doctrine disturbs and potentially undermines religious authorities and local government authorities. Religious authorities and state authorities cooperated to solve the problem. Both authorities tend to represent the voice of majority, rather than the minority. Actually, the State position is fulfilling the rights of minority from the hegemony of majority. On this position, the State protects the freedom from the tyranny of religious discourse. But the political accommodation of the government through the issuing the public policy is a part of the weakness of the local government. Besides having the tendency to support the majority, the government has the obligation for supporting religious harmony within a society.

The hegemony of the discourse of orthodoxy through the fatwa and public policy according to Johan Galtung could be a tool of justification of violence. In this case, the fatwa or public policy could justify direct violence or indirect violence/structural violence.

Direct violence against Tajul Muluk occurred through burning the property, mosque, killing, intimidation, persecution, despotism, terror, exclusion and other forms of direct violence. Direct violence includes many aspects of life such as physical, theology, psychology, economics, politics, freedom of religious expression and other aspects. The second aspect of violence is cultural violence, which comes from the religious internalization that emerges the claim of a belief system as a truth claim. The impact of this truth claim is *othering* to who differs from the belief system, with the impact of this attitude being the exclusion of a minority from the majority. This attitude tends to eliminate the other who have a different belief system. Consequently, the phenomena of hegemony, persecution and other actions resulted with relocation, with the

Shi'a becoming a displaced people in Sidoarjo. The third aspect of violence is the structural violence that is from the culture of society. Structure creates the inequality that can be present in society. An unbalanced relationship between the majority and minority become the trigger of accessibility for unequal segments of the community. The structure makes the minority impossible to access the opportunities as a citizen of the country. Structure disintegrates relationships with each other, with the culture of society, such as religious provocation towards religious heresy an example. With this, public sermons may be addressed concerning the other who different in a belief system, being portrayed as a deviant ideology.

Acts of violence against Tajul Muluk and followers caused many aspects of rights of life and citizenship to be violated. Mainly the freedom of religious expression, the loss of residence and daily activities in their village were lost, now uncertain about their future in the refugee camp, "Puspo Agro". The impact of violence on Tajul Muluk and his followers are many and varied. Both the theological aspects of feeling of faith are overshadowed by a sense of fear and intimidation. Victims are impacted psychologically, experiencing long traumatic events due of physical violence. Economically, they lost their livelihood because they had to leave their homeland. Socially, they also felt isolated from society in general. Politically they felt excluded because they were forcibly relocated to a new place, unclear when the issue it would end. Psycho-socially they became uncomfortable, because they have been labeled as heretics, and other negative views. Socially, Tajul Muluk and his followers have felt marginalized and discriminated against. Such a reality should be considered by the government, with the process of re-integration for both the majority and minority groups by means of natural reconciliation should be supported at a greater level.

Reconciliation between the Sunni and Tajul Muluk, along with his followers, was encouraged by the government through fulfilling their rights of citizenship, such as the legalization of

mariage status at the office of religious affairs (KUA), the certification of their lands, the fulfillment of gifts from the government such as “Kartu Indonesia Pintar” (the government’s support for education), Kartu Indonesia Sehat (the government support for health) and other rights of citizenship. The government also endorses silent reconciliation. The concept of silent reconciliation is to avoid the “provocators” becoming involved in the process of the reconciliation. The silent reconciliation was designed by using local customs, such as the family events: visiting marriage celebrations and visiting the event of pilgrimage departure in Sampang society. Those events have been happening when this dissertation was still being written. I hope this silent reconciliation will be successful for the reconciliation among them, for the inclusion and reintegration of society, and for harmonious religious community

B. Recommendation

The Issue of Social interaction between Sunni and Shi`ite in Indonesia becomes the latent issue in Indonesia. It relates to the managing diversity and plurality of the ideology of the community. The pressure of majority oftenly was triggered by the difference case on the local context. It because the relationship among them is good relationship in one region, but is bad relationship in other region. It depends on personal and community interaction among them.

Based on previous fact, I recommend to who has a concern on the study on the minority issue to investigate the comparation study on the issue of Shi`ite in several regions. This study will fruitful to capture the similarity and dissimilarity of the characteristic of social interaction among them. This study will meaningful to produce the formulation of the “Fiqh Minority” on the many contexts in Indonesia regions. The New fiqh Minority will be based line on the building the concept of religious harmony and reconciliation based on managing diversity and plurality of ideology in Indonesia.





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APPENDIXES

Appendix 1. Pictures



Photo of Tajul Muluk in the camp of Refugee in “Puspo Agro”
Sidoarjo.



**The Photo of Kyai Ali Karrar Shinhaji in center position
(the local clerics in Sampang and pamekasan, Madura)**



The building of the camp refugee “Puspo agro” Sidoarjo.

Appendix 2.



PENGADILAN TINGGI SURABAYA

PUTUSAN

REG. NO. : 49 /PID/2012 /PT.SBY
 TANGGAL : 10 September 2012

DALAM PERKARA BANDING PIDANA

TERDAKWA : Tajel Mubash Ali Ali Mustadza

STATE ISLAMIC UNIVERSITY

SUNAN KALIJAGA

YOGYAKARTA

PEMBANDING : J.P.N.
 Terakawa

PUTUSAN PENGADILAN NEGERI : Lumpang

REG. NO. : 63/Pid.B/2012/PT.SBY
 TANGGAL : 12 Juli 2012

PUTUSAN

Nomor : 481 / Pid / 2012 / PT.Sby

" DEMI KEADILAN BERDASARKAN KETUHANAN YANG MAHA ESA "

Pengadilan Tinggi Surabaya, yang mengadili perkara-perkara pidana pada Pengadilan tingkat banding telah menjatuhkan putusan sebagai berikut dalam perkara

Terdakwa :

Nama Lengkap : **TAJUL MULUK Als. H. ALI MURTADHA;**
 Tempat lahir : Sampang;
 Umur / Tanggal lahir : 39 Tahun / 22 Oktober 1973;
 Jenis kelamin : Laki-laki;
 Kebangsaan : Indonesia;
 Tempat tinggal : Dusun Nangkrenang, Desa Karang Gayam,
 Kecamatan Omben, Kabupaten Sampang;
 Agama : Islam;
 Pekerjaan : Wiraswasta;
 Pendidikan : Madrasah Aliyah (MA);



Terdakwa ditahan dalam Rumah Tahanan Negara berdasarkan Surat Perintah / Penetapan Penahanan oleh:

1. Penuntut Umum, sejak tanggal 12 April 2012 s/d 15 April 2012;
2. Majelis Hakim PN Sampang, sejak tanggal 16 April 2012 s/d 15 Mei 2012;
3. Perpanjangan Ketua PN Sampang, sejak tanggal 16 Mei 2012 s/d 14 Juli 2012;
4. Penetapan Ketua Pengadilan Tinggi Surabaya sejak tanggal 12 Juli 2012 s/d 10 Agustus 2012 ;
5. Perpanjangan Wakil Ketua Pengadilan Tinggi Surabaya sejak tanggal 11 Agustus 2012 s/d 9 Oktober 2012.

Terdakwa ...

✓

Terdakwa dalam tingkat banding didampingi oleh Penasihat Hukumnya OTMAN RALIBI, SH. dkk. Advokat yang tergabung dalam Tim Pembela Hukum HAK KEBEBASAN BERAGAMA & BERKE-YAKINAN, berkedudukan di Jalan Tunjungan No. 74, Surabaya, berdasarkan Surat Kuasa Khusus tertanggal 18 Juli 2012 ;

Pengadilan Tinggi tersebut ;

Telah membaca :

- Surat Penetapan Wakil Ketua Pengadilan Tinggi Surabaya, Nomor : 481/PEN.MAJ/2012/PT.Sby, tanggal 04 September 2012, tentang Penunjukan Majelis Hakim untuk memeriksa dan mengadili perkara ini ;
- Berkas perkara dan semua surat-surat yang berhubungan dengan perkara ini ;
- Surat dakwaan Penuntut Umum Kejaksaan Negeri No. Reg. Perkara: PDM-34/SMPG/04/2012 tertanggal 12 April 2012 yang dibacakan di persidangan tanggal 24 April 2012, yang berbunyi sebagai berikut :



Bahwa ia terdakwa TAJUL MULUK ALS. H. ALI MURTADHA, pada hari dan tanggal yang tidak dapat ditentukan dengan pasti antara tahun 2003 sampai dengan 29 Desember 2011, atau setidaknya pada waktu-waktu lain antara tahun 2003 sampai dengan tahun 2011 bertempat di Desa Karang Gayam Kecamatan Omben Kabupaten Sampang dan di Desa Kampung Gedding Laok Desa Blu'uran Kecamatan Karang Penang Kabupaten Sampang atau pada tempat dimana Pengadilan Negeri Sampang berwenang memeriksa dan mengadili, dengan sengaja di muka umum mengedarkan perasmi atau melakukan perbuatan yang pada pokoknya bersifat permusuhan, penyalahgunaan atau penodaan terhadap suatu agama yang dianut di Indonesia, dengan maksud agar supaya orang tidak menganut agama apapun juga, yang bersendikan ke-Tuhanan Yang Maha Esa, perbuatan mana dilakukan terdakwa dengan cara-cara sebagai berikut :

- Berawal...

- Berawal pada tahun 1998 terdakwa TAJUL MULUK al. H. ALI MURTADHA pulang dari Ponpes YAPI Bangil kemudian melanjutkan belajar ke Saudi Arabia selama 6 (enam) tahun, kemudian pada tahun 2003 terdakwa mulai menerapkan ajarannya dengan cara melakukan perekrutan beberapa santri yang sebelumnya telah menjadi santri di Pondok Pesantren sekitarnya, kemudian para santri yang menjadi pengikut terdakwa TAJUL MULUK ALS. H. ALI MURTADHA dan masyarakat mulai curiga terhadap ajaran-ajaran yang ada pada agama islam yang telah disampaikan oleh terdakwa kepada para santrinya, dimana ajaran yang disampaikan oleh terdakwa terdapat penyimpangan secara prinsipil yang dapat memunculkan sifat pro dan kontra didalam masyarakat penganut agama islam pada umumnya, dalam menyampaikan ajaran-ajarannya terdakwa melakukannya secara fulgar dan menggunakan bahasa yang keras dan menantang kelompok lain diluar kelompok terdakwa, ajaran yang telah disampaikan terdakwa kepada santrinya salah satunya menganggap bahwa kitab suci Al Qur'an yang berada ditangan kaum muslimin saat ini dianggap tidak otentik atau tidak original dengan mengistilahkan " Aqiedah Tahrief Al Qur'an" yang Original sedang dibawa oleh AL IMAM AL MAHDIY AL MUNTADHILOR yang sekarang ini sedang Ghaib, selain itu ajaran yang disampaikan terdakwa yang terdapat penyimpangan adalah sebagai berikut :

- a. Tidak cukup dua kalimat syahadat dengan ditambah syahadat terhadap imam-imam imamimiyah itsna Asyariyyah Ja'fariyah yang berbunyi "ASYHADU AN-LAA ILAAHA ILLALLAAH, WA ASYAHADU ANNA MUHAMMADAR ROSULULLAAH, WA ASYAHADU ANNA ALIYYAN WALIYYULLAAH WA ASYAHADU ANNA ALIYYAN HUJJATULLAAH" yang artinya "Saya bersaksi bahwa tiada Tuhan selain Allah dan aku bersaksi bahwa Nabi Muhammad Utusan Allah dan aku bersaksi bahwa ALI adalah Wali Allah dan aku bersaksi bahwa ALI adalah Hujjah Allah.

b. Wajibnya ...

- b. Wajibnya mengkafirkan shabat-sahabat dan para mertua serta beberapa para istri Nabi Muhammad SAW.
- c. Mewajibkan berbohong atau bertaqiyah terhadap kaum muslimin Ahli Sunnah Waljama'ah serta dengan bertaqiyah tersebut akan meninggikan derajat-derajatnya sampai ulamanya berkata tidak dianggap beragama apabila tidak berdusta atau bertaqiyah.
- d. Rukun Islam dan Rukun Imannya berbeda dengan mayoritas kaum muslimin yaitu bahwa rukun imannya ada 5 (lima) yaitu :
- Tawhidullah/Ma'rifatullah;
 - Annubuwwah (Kenabian);
 - Al-immamah (Keimamahan);
 - Al adli (Keadilan Tuhan);
 - Al Ma'aad (Hari Pembalasan);
- Rukun Islam ada 8 (delapan) yaitu:
- As Sholat
 - As Shoun (Puasa)
 - Az Zakat
 - Al Khumus
 - Al Hajj
 - Amar Ma'ruf Nahi Munkar
 - Jihad dijalan dengan harta jiwa raga bahkan nyawa
 - Al-Wilayah (Bertaat pada para imam serta berlepas tangan (baro') terhadap musuh-musuh imam yaitu para sahabat nabi serta pengikut dan pencinta para sahabat Nabi Muhammad Saw jelasnya kaum ahlu sunnah Wal Jamaah.
 - Al Fidha (pembebasan yang berarti membebaskan segala hal yang dimiliki baik harta jiwa raga dan nyawa untuk ketaatan kepada para imam, sehingga ajaran tersebut diperbolehkan untuk bunuh diri demi ketaatan pada pimpinan atau imam.
 - Ar-roji'ah...

- f. Ar-roji'ah (syiah Imammiyah berkeyakinan bahwa semua manusia yang meninggal dunia akan dihidupkan kembali oleh Imam Mahdhy sebelum tiba hari kiamat dan Imam mahdhy akan mengadili atau menuntut balas kepada para sahabat Nabi dan Pengikutnya yakni Ahli Sunnah Wal Jama'ah, baru setelah itu manusia akan meninggal dunia kembali sambil menunggu hari kiamat tiba).

Penyampaian ajaran tersebut dilakukan terdakwa di sebuah rumah di Dusun Nangkrenang Desa Karang Gayam Kecamatan Omben Kabupaten Sampang yang digunakan untuk belajar mengaji dan sekaligus sebagai tempat terdakwa menyampaikan ajaran-ajarannya di hadapan para santri/pengikutnya, selain itu juga penyampaian ajaran-ajaran terdakwa dilakukan di Mesjid Banyuarrum Ds Blu'uran Kecamatan Karang Penang Kabupaten Sampang pada saat perkumpulan dengan para Pengikutnya yang biasanya diadakan setiap malam Jum'at dan malam Selasa, sedangkan untuk kegiatan diluar Pondok terdakwa biasanya pada acara khusus dilakukan 3 (tiga) kali pada setiap tahunnya pada bulan Syuro, safar dan dzulhijjah, dimana penyampaian ajaran-ajaran tersebut terdakwa lakukan dengan cara berbicara didepan para santrinya/pengikutnya, dengan maksud dan tujuan agar para santri atau pengikutnya mau mengikuti ajaran-ajaran terdakwa apabila para santri dan para pengikutnya tidak mau mengikuti ajarannya dan ingin keluar terdakwa tidak memperbolehkannya bahkan kalau pengikutnya atau santrinya keluar dikatakan Murtad, Pengkhianat, dan iblis, dan para pengikut terdakwa tidak bisa keluar karena terikat adanya balas budi, hutang dan sebagainya, akibat perbuatan terdakwa masyarakat disekitar tempat terdakwa menyebarkan ajaran tersebut menjadi resah baik Para ulama, Para Kyai dan tokoh masyarakat sehingga terjadi pertentangan/ konflik antara ajaran yang disampaikan terdakwa dengan ajaran ahli Sunnah waljamaah yang pada umumnya di anut oleh masyarakat Sampang, Para ulama, Para Kyai dan tokoh masyarakat menganggap terdakwa telah melukai perasaan ummat islam karena telah

mengajarkan...

mengajarkan ajaran yang menyimpang dari agama islam sebagaimana fatwa MUI Kabupaten Sampang No. A-035/MUI/Sp/1/2012 tanggal 1 Januari 2012 yang menyatakan bahwa ajaran yang disebarluaskan oleh Sdr. Tajul Muluk sesat dan menyesatkan, ajaran yang disebarluaskan oleh Sdr. TAJUL MULUK merupakan penistaan dan penodaan terhadap Agama Islam.

Perbuatan terdakwa sebagaimana diatur dan diancam pidana dalam pasal 156a KUHP.

ATAU

KEDUA :

Bahwa ia terdakwa TAJUL, MULUK ALS. H. ALI MURTADHA, pada waktu dan tempat sebagaimana telah diuraikan dalam dakwaan kesatu, dengan melawan hak memaksa orang lain untuk melakukan, tiada melakukan atau membiarkan barang sesuatu apa dengan kekerasan, dengan sesuatu perbuatan lain ataupun dengan perbuatan yang tidak menyenangkan atau dengan ancaman kekerasan, ancaman dengan sesuatu perbuatan lain, ataupun ancaman dengan perbuatan yang tidak menyenangkan akan melakukan sesuatu itu baik terhadap orang itu maupun terhadap orang lain, perbuatan mana dilakukan Terdakwa dengan cara-cara sebagai berikut :

- Berawal pada tahun 1998 terdakwa TAJUL MULUK al. H. ALI MURTADHA pulang dari Ponpes YAPI Bangil kemudian melanjutkan belajar ke Saudi Arabia selama 6 (enam) tahun, kemudian pada tahun 2003 terdakwa mulai menerapkan ajarannya dengan cara melakukan perekrutan beberapa santri yang sebelumnya telah menjadi santri di Pondok Pesantren sekitarnya, kemudian para santri yang menjadi pengikut terdakwa TAJUL MULUK ALS. H. ALI MURTADHA dan masyarakat mulai curiga terhadap ajaran-ajaran yang ada pada agama islam yang telah disampaikan oleh terdakwa kepada para santrinya, dimana ajaran yang disampaikan oleh terdakwa terdapat penyimpangan secara prinsipil yang dapat memunculkan sifat pro dan kontra didalam masyarakat penganut agama islam pada umumnya, dalam menyampaikan ajaran - ajarannya terdakwa melakukannya secara fulgar dan

menggunakan...

menggunakan bahasa yang keras dan menantang kelompok lain diluar kelompok terdakwa, ajaran yang telah disampaikan terdakwa kepada santrinya salah satunya mengangeap bahwa kitab suci Al Qur'an yang berada ditangan kaum muslimin saat ini dianggap tidak otentik atau tidak original dengan mengistilahkan "Aqiedah Tahrief Al Qur'an" yang Original sedang dibawa oleh AL IMAM AL MAHDIY AL MUNTADHOR yang sekarang ini sedang Ghaib, selain itu ajaran yang disampaikan terdakwa yang terdapat penyimpangan adalah sebagai berikut :

- a. Tidak cukup dua kalimat syahadat dengan ditambah syahadat terhadap imam-imam imammiyyah itsna Asyariyyah Ja'fariyah yang berbunyi "ASYHADU AN-LAA ILAAHA ILLALLAAH, WA ASYAHADU ANNA MUHAMMADAR ROSULULLAAH, WA ASYAHADU ANNA ALIYYAN WALIYYULLAAH WA ASYAHADU ANNA ALIYYAN HUUJATULLAAH" yang artinya "Saya bersaksi bahwa tiada Tuhan selain Allah dan aku bersaksi bahwa Nabi Muhammad Utusan Allah dan aku bersaksi bahwa ALI adalah Wali Allah dan aku bersaksi bahwa ALI adalah Hujjah Allah.
- b. Wajibnya mengafirkan shabat-sahabat dan para mertua serta beberapa para istri Nabi Muhammad SAW.
- c. Memwajibkan berbohong atau bertaqiyah terhadap kaum muslimin Ahli Sunnah Waljama'ah serta dengan bertaqiyah tersebut akan meninggikan derajat-derajatnya sampai ulamanya berkata tidak dianggap beragama apabila tidak berdusta atau bertaqiyah.
- d. Rukun Islam dan Rukun Imannya berbeda dengan mayoritas kaum muslimin yaitu bahwa rukun imannya ada 5 (lima) yaitu :
 - a. Tawhidullah/Ma'rifatullah;
 - b. Annubuwwah (Kenabian);
 - c. Al-immamah (Keimamahan);
 - d. Al adli (Keadilan Tuhan);

e. Al Ma'aad ...

e. Al Ma'aad (Hari Pembalasan);

Rukun Islam ada 8 (delapan) yaitu:

a. As Sholat

b. As Shoun (Puasa)

c. Az Zakat

d. Al Khumus

e. Al Hajj

f. Amar Ma'ruf Nahi Munkar

g. Jihad dijalan dengan harta jiwa raga bahkan nyawa

h. Al-Wilayah (Bertaat pada para imam serta berlepas tangan (baro') terhadap musuh-musuh imam yaitu para sahabat nabi serta pengikut dan pencinta para sahabat Nabi Muhammad Saw jelasnya kaum ahlu sunnah Wal Jamaah.

e. Al F'idha (pembebasan yang berarti membebaskan segala hal yang dimiliki baik harta jiwa raga dan nyawa untuk ketaatan kepada para imam, sehingga ajaran tersebut diperbolehkan untuk bunuh diri demi ketaatan pada pimpinan atau imam.

f. Ar-Rufah (syiah Inanmiyah berkeyakinan bahwa semua manusia yang meninggal dunia akan dihidupkan kembali oleh Imam Mahdhy sebelum tiba hari kiamat dan Imam mahdhy akan mengadili atau menuntut balas kepada para sahabat Nabi dan Pengikutnya yakni Ahli Sunnah Wal Jama'ah, baru setelah itu manusia akan meninggal dunia kembali sambil menunggu hari kiamat tiba).

Penyampaian ajaran tersebut dilakukan terdakwa di sebuah rumah di Dusun Nangkrenang Desa Karang Gayam Kecamatan Omben Kabupaten Sampang yang digunakan untuk belajar mengajar dan sekaligus sebagai tempat terdakwa menyampaikan ajaran-ajarannya di hadapan para santri/pengikutnya, selain itu juga penyampaian ajaran-ajaran terdakwa dilakukan di Mesjid Banyuarrum Ds Blu'uran Kecamatan Karang Penang Kabupaten Sampang pada saat perkumpulan dengan para Pengikutnya yang biasanya diadakan setiap malam Jum'at dan malam Selasa, sedangkan untuk kegiatan diluar Pondok terdakwa biasanya pada acara khusus

dilakukan...

dilakukan 3 (tiga) kali pada setiap tahunnya pada bulan Syuro, safar dan dzulhijjah, dimana penyampaian ajaran-ajaran tersebut terdakwa lakukan dengan cara berbicara didepan para santrinya/pengikutnya, dengan maksud dan tujuan agar para santri atau pengikutnya mau mengikuti ajaran-ajaran terdakwa apabila para santri dan para pengikutnya tidak mau mengikuti ajarannya dan ingin keluar terdakwa tidak memperbolehkannya bahkan kalau pengikutnya atau santrinya keluar dikatakan Murtad, Pengkhianat, dan iblis, dan para pengikut terdakwa tidak bisa keluar karena terikat adanya balas budi, hutang dan sebagainya, akibat perbuatan terdakwa masyarakat disekitar tempat terdakwa menyebarkan ajaran tersebut menjadi resah baik Para ulama, Para Kyai dan tokoh masyarakat sehingga terjadi pertentangan/ konflik antara ajaran yang disampaikan terdakwa dengan ajaran ahli Sunnah waljamaah yang pada umumnya di anut oleh masyarakat Sampang. Para ulama, Para Kyai dan tokoh masyarakat menganggap terdakwa telah melukai perasaan umat islam karena telah mengajarkan ajaran yang menyimpang dari agama islam sebagaimana fatwa MUI Kabupaten Sampang No. A-035/MUI/Sp/1/2012 tanggal 1 Januari 2012 yang menyatakan bahwa ajaran yang disebarluaskan oleh Sdr. Tajul Muluk sesat dan menyesatkan, ajaran yang disebarluaskan oleh Sdr. TAJUL MULUK merupakan penistaan dan penodaan terhadap Agama Islam.

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YOGYAKARTA

Perbuatan terdakwa sebagaimana diatur dan diancam pidana dalam pasal 335 ayat 1 ke-1 KUHP.

Menimbang, bahwa selanjutnya terdakwa melalui Penasihat Hukumnya telah mengajukan keberatan/eksepsi secara tertulis yang dibacakan di depan persidangan Pengadilan Negeri Sampang, pada hari Selasa tanggal 8 Mei 2012, yang pada pokoknya memohon agar Majelis Hakim pemeriksa perkara ini memberikan putusan, sebagai berikut :

1. Menyatakan mengabulkan eksepsi Penasihat Hukum Terdakwa Tajul Muluk Als. H. Ali Murtadha;

2. Menyatakan ...

2. Menyatakan Surat Dakwaan Jaksa Penuntut Umum Nomor.Reg.Perk.: PDM-34/SAMPG/04/2012, tanggal 12 April 2012 batal demi hukum, atau setidaknya tidak dapat diterima;
3. Memerintahkan agar Terdakwa segera dilepaskan atau dikeluarkan dari Rumah Tahanan Negara Lapas Sampang;
4. Merehabilitasi nama baik Terdakwa Tajul Muluk Als. H. Ali Murtadha;
5. Membebaskan biaya perkara kepada negara;

Menimbang, bahwa selanjutnya terhadap Eksepsi yang diajukan oleh Penasihat Hukum Terdakwa, Pengadilan Negeri Sampang menjatuhkan Putusan Sela pada hari Sela pada hari Selasa tanggal 22 Mei 2012, dengan amar putusan sela pada pokoknya sebagai berikut :

MENGADILI:

- 
- Menolak Eksepsi/Keberatan Penasihat Hukum Terdakwa tersebut secara keseluruhan.
 - Memerintahkan kepada Penuntut Umum untuk melanjutkan persidangan ini.
 - Menanggihkan biaya perkara hingga putusan akhir.

Menimbang, bahwa Jaksa Penuntut Umum dalam tuntutananya tanggal 28 April 2011 No. Reg. Perk: PDM-34/SAMPG/04/2012 menuntut supaya Majelis Hakim Yang memeriksa dan mengadili perkara ini memutuskan :

1. Menyatakan terdakwa TAJUL MULUK ALS. H. ALI MURTADHA telah terbukti secara sah dan meyakinkan bersalah melakukan tindak pidana penodaan agama Islam sebagaimana dalam dakwaan kesatu melanggar pasal 156a KUHP. *
2. Menjatuhkan pidana terhadap terdakwa TAJUL MULUK ALS. H. ALI MURTADHA dengan pidana penjara selama 4 (empat) tahun penjara dikurangi selama terdakwa berada dalam tahanan sementara dengan perintah Terdakwa tetap berada dalam tahanan;

3. Barang Bukti : ...



3. Barang Bukti :

- Surat Dewan Pimpinan Cabang Majelis Ulama Indonesia (MUI) Kabupaten Sampang Nomor A-037/MUI/Spg/1/2012 tanggal 17 Januari 2012 perihal ajaran atau aliran Syi'ah Imamiyah itsna asyariyah;
 - Fatwa MUI Kabupaten Sampang Nomor: A-035/MUI/Spg/1/2012 tanggal 1 Januari 2012 tentang Ajaran yang disebarkan TAJUL MULUK di Desa Karanggayam Kecamatan Omben Kabupaten Sampang, sesat dan menyesatkan merupakan penistaan agama;
 - Surat Pernyataan Sikap PC NU Kabupaten Sampang Nomor : 255/EC/A.2/L-36/1/2012 tanggal 2 Januari 2012;
 - Surat Kejaksaan Negeri Kabupaten Sampang Nomor: TAR-B-035/O.5.36/Dsp.5/01/2012 tanggal 4 Januari 2012 tentang Laporan hasil Rapat Bakorpakem Kabupaten Sampang;
 - Surat-surat pernyataan yang dibuat oleh Sdr. TAJUL MULUK;
 - 1 (satu) buah buku yang berjudul sudahkan anda sholat;
 - 1 (satu) buah CD rekaman suara TAJUL MULUK als. ALI MURTADHA.
 - 1 (satu) buku Paham Syi'ah;
 - 1 (satu) buku risalah Amman;
- Tetap terlampir dalam berkas perkara;

4. Menetapkan supaya terdakwa membayar ongkos perkara sebesar Rp. 5.000.- (lima ribu rupiah).

Menimbang, bahwa terhadap tuntutan Jaksa Penuntut Umum tersebut Pengadilan Negeri Sampang telah menjatuhkan putusan tanggal 12 Juli 2012 Nomor : 69/Pid.B/2012/PN.Spg. yang amarnya berbunyi sebagai berikut :

1. Menyatakan terdakwa TAJUL MULUK Als. H. ALI MURTADHA terbukti secara sah dan meyakinkan bersalah melakukan tindak pidana "Melakukan perbuatan yang pada pokoknya bersifat penodaan terhadap agama Islam".
2. Menjatuhkan pidana terhadap terdakwa dengan pidana penjara selama 2 (dua) tahun;
3. Menetapkan masa penahanan yang telah dijalani terdakwa dikurangkan seluruhnya dari pidana yang dijatuhkan;

4. Menetapkan ...

4. Menetapkan agar terdakwa tetap berada dalam tahanan.

5. Memerintahkan agar barang bukti berupa :

- Surat Dewan Pimpinan Majelis Ulama Indonesia (MUI) Kabupaten Sampang Nomor: A-037/MUI/Spq/1/2012, tanggal 17 Januari 2012 perihal Ajaran atau aliran Syi'ah inamiyah itsna asyariyah ;

- Fatwa MUI Kabupaten Sampang Nomor: A-035/MUI/Spq/1/2012, tanggal 1 Januari 2012 tentang ajaran yang disebarkan Tajul Muluk di Desa Karang Gayam Kecamatan Omben Kabupaten Sampang, sesat dan menyesatkan, merupakan penistaan dan penodaan terhadap agama Islam;

- Surat pernyataan sikap P'NU Kabupaten Sampang Nomor: 255/EC/A.2/L-36/1/2012 tanggal 2 Januari 2012 ;



Surat Kejaksaan Negeri Kabupaten Sampang Nomor: TAR.B-03/0.5.36/DSP.5/01/2012 tanggal 4 Januari 2012 tentang laporan hasil rapat Bakorpukem Kabupaten Sampang ;

Surat-Surat Pernyataan yang dibuat oleh Sdr. Tajul Muluk;

- 1 (satu) buah buku yang berjudul sudahkah anda shalat karangan Fakhruddin ;

- 1 (satu) buah CD berisi rekaman pembicaraan Tajul Muluk als. Ali Murtado dengan E. Rumi berdurasi sekitar 32 (tiga puluh dua) menit;

- 1 (satu) buku Paham syi'ah;

- 1 (satu) buku Risalah Amman dan

Tetap terlampir dalam berkas perkara.

6. Membebankan biaya perkara kepada Terdakwa sebesar Rp. 5.000,- (lima ribu rupiah).

Menimbang, bahwa terhadap putusan Pengadilan Negeri Sampang tersebut, Terdakwa dan Jaksa Penuntut Umum pada tanggal 12 Juli -2012, telah mengajukan permintaan banding sebagaimana Akta Permintaan Banding Nomor : 05/Akta Pid/2012/

PN.Spg. ...

3 Menteri. Sedangkan menurut Terdakwa / Pembanding II tujuan dasar dan penafsiran terhadap penafsiran Pasal 156 a KUHP, haruslah mengacu pada UU No. 1/PNPS/1965 ;

b. Majelis Hakim Tingkat Pertama yang menyatakan materi dakwaan Penuntut Umum sudah jelas dan tidak kabur. Sedangkan menurut Terdakwa / Pembanding II tidak menjelaskan secara rinci detail tentang unsur-unsur Pasal yang didakwakan ;

2. Majelis Hakim Tingkat Pertama telah salah / keliru dalam menilai fakta.

a. Saksi a Charge tidak kredibel , berpendapat dan merupakan rekaan hasil pemikiran ;

b. Menolak keterangan saksi a de Charge tanpa alasan hukum yang jelas dan kuat ; Menolak bukti Al Qur'an tanpa bukti sebaliknya ;

c. Pertimbangan hukum Majelis Hakim Tingkat Pertama kontradiktif atau saling berlawanan ;

4. Majelis Hakim Tingkat Pertama salah dalam penerapan hukumnya atau diterapkan tidak sebagaimana mestinya ;

a. Memutus tidak berdasarkan dakwaan Penuntut Umum ;

b. Tidak menerapkan Pasal 1 ayat (26) jo Pasal 185 ayat (4) KUHP sebagaimana mestinya ;

c. Menghilangkan / mengubah keterangan saksi ;

d. Tidak menerapkan Pasal 185 (6) huruf d KUHP sebagaimana mestinya ;

Menimbang, bahwa atas menteri banding tersebut diatas, Majelis Hakim

Pengadilan Tinggi akan mempertimbangkan sebagai berikut :

I.a. Bahwa Majelis Hakim Tingkat Pertama yang menyatakan tidak perlu dibutuhkan SKB

3 Menteri adalah sudah benar dan telah mengacu pada UU No. 1/PNPS/1965, karena perbuatan terdakwa sudah memenuhi unsur-unsur dari dakwaan pertama secara benar;

b. Bahwa ...

Hakim Tingkat Pertama telah mempertimbangkan keterangan saksi-saksi yang terungkap di persidangan dan yang saling bersesuaian, sedangkan yang tidak bersesuaian tidak perlu dipertimbangkan lagi :

c. Bahwa Majelis Hakim Tingkat Pertama telah menghilangkan / mengubah keterangan saksi adalah tidak benar, karena Penasihat Hukum Terdakwa hanyalah berdasar atas kebenaran keterangan saksi yang diajukannya dan Majelis Hakim Tingkat Pertama berdasar atas fakta-fakta hukum di persidangan :

d. Bahwa Majelis Hakim Tingkat Pertama tidak menerapkan Pasal 185 (6) huruf d KUHP sebagaimana mestinya adalah tidak benar, karena Majelis Hakim Tingkat Pertama telah mempertimbangkan keterangan saksi-saksi dan telah mengikuti maksud ketentuan Pasal 185 (6) KUHP seperti yang terurai pada halaman 89 Putusan Majelis Hakim Tingkat Pertama tersebut :

Menimbang, bahwa berdasarkan pertimbangan-pertimbangan tersebut di atas, Majelis Hakim Pengadilan Tinggi menolak Memori Banding dari Penasihat Hukum Terdakwa tersebut di atas :

Menimbang, bahwa setelah Majelis Hakim Pengadilan Tinggi memeriksa dan meneliti dengan seksama berkas perkara beserta turunan resmi Putusan Pengadilan Negeri Sampang tanggal 12 Juli 2012 Nomor : 69/Pid.B/2012/PN.Spg, dan telah membaca, memperhatikan Memori Banding yang diajukan oleh Penuntut Umum, Memori Banding yang telah diajukan oleh Penasihat Hukum Terdakwa, Majelis Hakim Pengadilan Tinggi berpendapat bahwa pertimbangan hukum Majelis Hakim Tingkat Pertama dalam putusannya berdasarkan alasan yang tepat dan benar, karena itu dijadikan sebagai pertimbangan hukum Majelis Hakim Pengadilan Tinggi dalam memutus perkara ini di tingkat banding :

Menimbang, bahwa namun demikian Majelis Hakim Pengadilan Tinggi tidak sependapat mengenai pidana yang dijatuhkan karena terlalu ringan dan adil apabila

terdakwa ...

terdakwa dihukum seperti tersebut dalam amar putusan di bawah ini ;

Menimbang, bahwa pidana yang dijatuhkan kepada seseorang terdakwa tidak hanya mendidik terdakwa sendiri, tetapi juga sebagai contoh bagi masyarakat lainnya agar tidak berbuat seperti yang dilakukan terdakwa ;

Menimbang, bahwa perbuatan terdakwa mengakibatkan ketidakharmonisan sesama umat Islam, meresahkan masyarakat, khususnya umat Islam Kecamatan Omben dan Kecamatan Karang Penang Kabupaten Sampang, dan hal-hal tersebut menyebabkan terjadinya pembakaran rumah-rumah secara masal ;

Menimbang, bahwa berdasarkan pertimbangan tersebut di atas, maka Putusan Pengadilan Negeri Sampang tanggal 12 Juli 2012 Nomor : 69/Pid.B/2012/PN.Spg. yang dimintakan banding tersebut harus diperbaiki sekedar mengenai penjatuhan pidana, sehingga amar selengkapnyanya seperti tersebut di bawah ini ;

Menimbang, bahwa oleh karena menurut pendapat Majelis Hakim Pengadilan Tinggi tidak ada alasan yang cukup untuk mengeluarkan terdakwa dari tahanan, maka menetapkan agar terdakwa tetap berada dalam tahanan ;

Menimbang, bahwa oleh karena terdakwa tetap dinyatakan bersalah dan dijatuhi pidana, maka kepadanya harus dibebani untuk membayar biaya perkara dalam kedua tingkat peradilan ;

Mengingat, Pasal 156 a KUHP, Undang-Undang No. 8 Tahun 1981 tentang KUHP serta Peraturan Perundang-Undangan lain yang bersangkutan ;

MENGADILI :

- Menerima permintaan banding dari Terdakwa dan Jaksa Penuntut Umum tersebut ;
- Memperbaiki Putusan Pengadilan Negeri Sampang tanggal 12 Juli 2012 Nomor : 69/Pid.B/2012/PN.Spg. yang dimintakan banding, sekedar mengenai penjatuhan pidana, sehingga amar selengkapnyanya berbunyi sebagai berikut :

1. Menyatakan

1. Menyatakan terdakwa TAJUL MULUK Als. H. ALI MURTADHA terbukti secara sah dan meyakinkan bersalah melakukan tindak pidana "Melakukan perbuatan yang pada pokoknya bersifat penodaan terhadap agama Islam" ;
2. Menjatuhkan pidana terhadap terdakwa dengan pidana penjara selama 4 (empat) tahun ;
3. Menetapkan masa penahanan yang telah dijalani terdakwa dikurangkan seluruhnya dari pidana yang dijatuhkan ;
4. Menetapkan agar terdakwa tetap berada dalam tahanan ;
5. Memerintahkan agar barang bukti berupa :
 - Surat Dewan Pimpinan Majelis Ulama Indonesia (MUI) Kabupaten Sampang Nomor: A-037/MUI/Spj/I/2012, tanggal 17 Januari 2012 perihal Ajaran atau aliran Syi'ah inamiyah itsna asyariyah ;
 - Fatwa MUI Kabupaten Sampang Nomor: A-035/MUI/Spj/I/2012, tanggal 1 Januari 2012 tentang ajaran yang disebarkan Tajul Muluk di Desa Karang Gayam Kecamatan Omben Kabupaten Sampang, sesat dan menyesatkan, merupakan penistaan dan penodaan terhadap agama Islam;
 - Surat pernyataan sikap PCNU Kabupaten Sampang, Nomor: 255/EC/A.2/I.-36/I/2012 tanggal 2 Januari 2012 ;
 - Surat Kejaksaan Negeri Kabupaten Sampang Nomor: TAR.B- 03/0.5.36/DSP.5/01/2012 tanggal 4 Januari 2012 tentang laporan hasil rapat Bakorpakem Kabupaten Sampang ;
 - Surat-Surat Pernyataan yang dibuat oleh Sdr. Tajul Muluk;
 - 1 (satu) buah buku yang berjudul sudahkah anda shalat karangan Fakhruddin ;
 - 1 (satu) buah CD berisi rekaman pembicaraan Tajul Muluk als. Ali Murtado dengan P. Rum berdurasi sekitar 32 (tiga puluh dua) menit;*
 - 1 (satu) buku Paham syi'ah;
 - 1 (satu) buku Risalah Amman; dan
 Tetap terlampir dalam berkas perkara.
6. Membebankan biaya perkara kepada terdakwa di kedua tingkat peradilan, yang dalam tingkat banding sebesar Rp. 5.000,- (Lima ribu rupiah).

Demikianlah

Demikianlah diputuskan dalam rapat permusyawaratan Majelis Hakim Pengadilan Tinggi Surabaya pada hari : SENIN, tanggal 10 SEPTEMBER 2012 oleh kami H. ACHMAD ISWANDI, S.H. Wakil Ketua Pengadilan Tinggi Surabaya selaku Hakim Ketua Majelis, TUMPAK SIHOMBING, SH. dan R. NOHANTORO, SH. masing-masing Hakim Tinggi sebagai Hakim Anggota, putusan mana diucapkan dalam sidang terbuka untuk umum pada hari itu juga oleh Hakim Ketua Majelis dengan dihadiri oleh Para Hakim Anggota tersebut serta Drs. TOETOENG TRI HARNOKO HS., SH. sebagai Panitera Pengganti, tanpa dihadiri oleh Penuntut Umum, Terdakwa dan Penasihat Hukum.

Hakim Anggota,

Ttd.

TUMPAK SIHOMBING, S.H.

Ttd.

R. NOHANTORO, S.H.

Hakim Ketua Majelis,

Ttd.

H. ACHMAD ISWANDI, S.H.

Panitera Pengganti,

Ttd.

Drs. TOETOENG TRI HARNOKO HS., SH.

STATE ISLAMIC UNIVERSITY
SUNAN KALIJAGA
YOGYAKARTA

Untuk salinan yang sama bunyinya dengan aslinya

Panitera Pengadilan Tinggi Surabaya

H. JOKO SABAR S. SH

NIP. 040028213



Appendix 3.


 مجلس العلماء الاندونيسى بمقام
DEWAN PIMPINAN
MAJELIS ULAMA INDONESIA (MUI) KABUPATEN SAMPANG
 Sekretaris : Jl. Jangung Suprpto No.53, Sampang Telp. (0323) 321912

KEPUTUSAN FATWA
MAJELIS ULAMA INDONESIA KABUPATEN SAMPANG
 Nomor : A-035/MUI/Spq/11/2012
 Tentang
AJARAN YANG DISEBARLUASKAN SDR. TAJUL MULUK DI KEC. OMBEN, KAB. SAMPANG

Majelis Ulama Indonesia (MUI) Kabupaten Sampang dalam Musyawarahnya pada tanggal 8 Shafar 1433 H/ 1 Januari 2012 M, setelah

MEMPERHATIKAN :

1. Laporan keresahan masyarakat yang diakibatkan oleh ajaran yang dibawa oleh Sdr. Tajul Muluk warga Desa KARANG Gayam, Kec. Omben, Kab. Sampang;
2. Bahwa ajaran yang dibawa Sdr. Tajul Muluk secara teologis telah menyebabkan banyak warga menyimpang dari ajaran Islam;
3. Berdasarkan pengakuan beberapa warga mantan pengikut ajaran Sdr. Tajul Muluk yang mengindikasikan terjadinya penyimpangan dari ajaran Islam sebagai berikut :
 - a. Mengimani imam yang 12 dan menganggap perkataan mereka sebagai wahyu;
 - b. Al-Qur'an yang ada saat ini dianggap sudah tidak orisinal;
 - c. Mala'nat shahabat Nabi Muhammad saw : Abu Bakar, Umar dan Usman;
 - d. Sholat Jum'at tidak wajib;
 - e. Haji tidak wajib ke Mekkah, cukup ke Karbala;
 - f. Nikah mut'ah dianggap sunnah;
 - g. Hanya taat kepada imam yang 12 dan memusuhi musuh-musuhnya imam yang 12;
 - h. Sholat hanya dilakukan 3 waktu;
 - i. Aurat yang wajib ditutupi hanya alat vital sa'a'a;
 - j. Sholat taraweh, dluha dan puasa Asyuro haram

MENIMBANG :

- a. Bahwa ajaran yang dibawa Sdr. Tajul Muluk tersebut telah menimbulkan keprihatinan, kekhawatiran dan keresahan bagi para orang tua, ulama, tokoh masyarakat dan umat Islam di wilayah Kab. Sampang, dan secara khusus di Kec. Omben;
- b. Bahwa mayoritas masyarakat di daerah sekitar Sdr. Tajul Muluk tidak mengakui dan menolak ajaran yang dibawanya;
- c. Bahwa oleh karena itu perlu segera dikeluarkan fatwa tentang ajaran yang dibawa oleh Sdr. Tajul Muluk.

MENGINGAT :

1. Firman Allah SWT

يَا أَيُّهَا الَّذِينَ آمَنُوا إِذَا نُودِيَ لِلصَّلَاةِ مِنْ يَوْمِ الْجُمُعَةِ فَاسْعَوْا إِلَىٰ ذِكْرِ
 اللَّهِ وَذَرُوا الْبَيْعَ ذَلِكُمْ خَيْرٌ لَّكُمْ إِنْ كُنْتُمْ تَعْلَمُونَ

Hal orang-orang yang beriman, apabila diseru untuk menaikan sembahyang pada hari Jum'at, maka bersegeralah kamu kepada mengingat Allah dan tinggalkanlah jual beli. Yang demikian itu lebih baik bagimu jika kamu mengetahui (QS. Al-Jumu'ah : 9)

إِنَّا نَحْنُ الرَّحْمَنُ الْمَنَّانُ إِنَّا لَهُ نَافِظُونَ

Sesungguhnya Kami-lah yang menurunkan Al Qur'an, dan sesungguhnya Kami benar-benar memeliharanya (QS. Al-Hijr : 9)

مُحَمَّدٌ رَسُولُ اللَّهِ وَالَّذِينَ مَعَهُ أَشِدَّاءُ عَلَى الْكُفَّارِ رُحَمَاءُ بَيْنَهُمْ تَرَاهُمْ رُكْعًا سَجِدًا يَتَعَوَّنَ فَضْلًا مِنَ اللَّهِ وَرَضَوْنَا

Muhammad itu adalah utusan Allah dan orang-orang yang bersama dengan dia adalah keras terhadap orang-orang kafir, tetapi berkasih sayang sesama mereka, kamu lihat mereka ruku dan sujud mencari karunia Allah dan keridhaan-Nya... (QS. Al-Fath : 29)

وَالسَّابِقُونَ السَّابِقُونَ مِنَ الْمُهَاجِرِينَ وَالْأَنْصَارِ وَالَّذِينَ اتَّبَعُوهُمْ بِإِحْسَانٍ رَضِيَ اللَّهُ عَنْهُمْ وَرَضُوا عَنْهُ وَأَعَدَّ لَهُمْ جَنَّاتٍ تَجْرِي تَحْتِهَا الْأَنْهَارُ خَالِدِينَ فِيهَا أَبَدًا ذَلِكَ الْفَوْزُ الْعَظِيمُ

Orang-orang yang terdahulu lagi yang pertama-tama (masuk Islam) di antara orang-orang muhajirin dan anshar dan orang-orang yang mengikuti mereka dengan baik, Allah ridha kepada mereka dan mereka pun ridha kepada Allah dan Allah menyediakan bagi mereka surga-surga yang mengalir sungai-sungai di dalamnya; mereka kekal di dalamnya selama-lamanya. Itulah kemenangan yang besar. (QS. At-Taubah : 100)

2. H.R.Khotib dalam kanzul umam (11/635/33094) dari Jabir RA. berkata:

ان الله اختار اصحابي على جميع العالمين سوى النبيين والمرسلين. واختار لي من اصحابي اربعة فجعلهم خير اصحابي: ابو بكر وعمر وعثمان وعلي. واختار امتي على سائر الامم.

Artinya: sesungguhnya Allah telah memilih sahabat-sahabatku melebihi orang-orang alam semesta selain para Nabi dan Rasul, dan memilih untukku dari sahabat-sahabatku empat orang untuk dijadikan sebaik-baik sahabatku "Abu Bakar, Umar, Usman, dan Ali. Dan memilih ummatku melebihi umat-umat yang lain.

3. H.R.Tirmidzi (5/358/3954) dari Abdullah bin Mughaffal RA. Berkata:

قال النبي صلى الله عليه وسلم (الله في اصحابي لا تجعلهم عرضا من بعدني لمن احبهم فاحبهم ومن افضهم فبفضي افضهم).

Artinya: Takutlah kalian kepada Allah di dalam urusan sahabat-sahabatku, jangan kalian jadikan mereka sasaran setelahku, barangsiapa mencintai mereka maka semata-mata karena mencintaiku, dan barangsiapa membenci mereka maka semata-mata karena membenciku.

4. H.R. Thobroni dan hakini dalam kitab kanzul ummal (11/529/32466) dari uwaim bin sa'idah RA. berkata:

ان النبي صلى الله عليه وسلم قال: ان الله استخار واختار لي اصحابا، فعمل لي منهم وزراء وانشارا

واصحابه فمن سبهم فعليه لعنة الله والملائكة والناس اجمعين، لا، بل الله منه يوم القيامة صرفا ولا عدلا.

Artinya: "Sesungguhnya Nabi Muhammad SAW bersabda: sesungguhnya Allah memilihmu dan memilih sahabat-sahabat untukku, dan menjadikan sebagian mereka menteri-menteri, dan pendukung-pendukungku dan kerabatku (dari pihak isteri). Barangsiapa menghujat mereka maka baginya laknat Allah dan malaikat dan semua manusia, Allah tidak akan menerima darinya kelak di hari kiamat amal fardu dan sunnah".

5. HR. Abu Nu'aim di hilyah dalam kitab kanzul Ummal (11/323/31631) dari Ali bin Abi Thalib ra. berkata:

ان النبي صلى الله عليه وسلم قال له: (سألتني من بعدي قوم لم يزل يقال لهم الرافضة: ان ادركتهم باقتلهم فانهم مشركون). قلت: يا رسول الله ما الملافة فيهم؟ قال: يقرظونك بما ليس فيك، ويعطون على السلف - ورواه عنهم - انهم يسيئون ابا بكر، ومن سب اصحابي فعليه لعنة الله والملائكة والناس اجمعين.

Artinya: sesungguhnya Nabi SAW bersabda kepada Ali bin Abi Thalib: Akan datang setelahku kaum yang mempunyai julukan Al-Rafidloh, maka jika menjumpai mereka, maka bunuhlah mereka. Sesungguhnya mereka adalah orang-orang musyrik. Lalu Ali bertanya kepada Rasulullah: Apa tanda-tanda mereka? Rasulullah menjawab: menyanjung-nyanjung kamu dengan sifat yang tak ada pada dirimu dan inencaci maki terhadap para pendahulu". Di dalam riwayat lain: (mereka menghujat Abu Bakar dan Umar, barang siapa menghujat para sahabatku maka baginya laknat Allah dan para malaikat dan semua manusia)".

6. Imam Malik mengkafirkan Aliran yang mencela para sahabat Nabi seperti dalam kitab As-sunnah karya Al-Khollal: 2/557 dengan sanad shahih dari Abu Bakar Al-Marwasi.

قال: سمعت ابا عبد الله يقول: قال مالك: الذي يشتم اصحاب النبي صلى الله عليه وسلم ليس لهم اسم اطلاق: تصيب في الاسلام.

Artinya: Imam Malik berkata: barangsiapa mencela para sahabat Nabi niscaya dia tidak mendapat bagian di dalam Islam".

قال ابن كثير: صدق قوله سبحانه وتعالى "..... لا يخطئ بهم الكفار.... ومن هذه الآية انتزع الامام مالك رحمة الله عليه في رواية عنه بتكثير الروافض الذين يبغضون الصحابة، رضي الله عنهم فقال: لانهم يفتادونهم، ومن غاظ الصحابة رضي الله عنهم فهو كافر لهذه الآية، فوافقه طائفة من العلماء رضي الله عنهم على ذلك.

Artinya: "Imam Ibnu Katsir menukil bahwa Imam Malik mengkafirkan syi'ah Rafidlah dengan mengambil dalil dari kalimat (يخطئ بهم الكفار) karena yang membenci sahabat adalah orang-orang kafir. Sebagian dari para Ulama membenarkan pengambilan dari dalil tersebut".

7. Dalam kitab As-sunnah karya Al-Khollal: 2/557 dari sanad shahih dari Abu Bakar Al-Marwasi:

قال: سألت ابا عبد الله عن رجل يفتي بما يكره ويحاديث ما رااه على الاسلام.

Artinya: Imam Ahmad ditanya tentang orang yang mencela para sahabat Nabi, saya khawatir mereka telah keluar dari agama Islam.

8. Dalam halaman yang sama dari Abd. Malik bin Abd. Hamid

قال: سمعت ابا عبد الله قال: من شتم اصحاب علي بن ابي طالب مثل الروافض، قال: من شتم اصحاب النبي صلى الله عليه وسلم لا يأن ان يذكره قد عرف عن الدين.

Artinya: Imam Ahmad berkata: Barangsiapa mencela para sahabat Nabi, saya khawatir mereka telah keluar dari agama Islam.

9. Imam Al-firyabi menganggap murtad bagi aliran yang mencela sahabat Abu Bakar seperti dalam As-shorimul maslul: 370 dari Musa bin Harun bin Ziyad:

قال: سمعت الغريي ورجل حساه عن شتم ابا بكر، قال: كافر، قال: تفصيل عليه قال: لا، ورسالته كيف

يبيع به وهو يقول: لا إله إلا الله قال: لا تسوء بأيديكم إرفعه بالحطب حتى تواروه في حفرة.

Artinya: Imam Firyabi ditanya tentang orang yang mencela sahabat Abu Bakar? Dia menjawab: Adalah kafir. Apa boleh disholati ketika mati? Dia jawab: tidak boleh. Lalu harus diperbuat bagaimana padahal mereka mengucapkan لا إله إلا الله Mereka tidak boleh dipegang dengan tangan akan tetapi angka: merel'a dengan kayu lalu ditanam di dalam jurug.

10. Imam Al-qodli Abu Ya'la menganggap kafir bagi aliran Syiah Rofidlah. seperti dalam kitab Al-mu'tamad: 267.

قال رحمه الله: ولما الرافضة فالحكم فيهم.... إن كثر الصحابة، أو فسقهم، بمعنى يستوجب به النار فهو كافر، والرافضة كما أن بعد انتشار أصولهم يكثرون أكثر الصحابة.

Artinya: Imam Qodli berkata: adapun hukum terhadap orang Rofidlah... jika ia mengkafirkan sahabat atau menganggap mereka fasik yang berarti masuk neraka, maka orang semacam ini adalah kafir.

11. Imam Ghazali mengkafirkan aliran yang menganggap kafir Abu Bakar dan Umar, seperti dalam kitab fadl'ihul bathinah: 149.

قال رحمه الله: قل: صرح بكتفاري بكنوعهم رضي الله عنهم... فقد خالف الإجماع وعرفه.... فقاتل ذلك إن بلغته الأخبار واستدع ذلك كفرهم فهو كافر.

Artinya: Imam Ghazali berkata: bilamana telah terang-terangan mengkafirkan Abu Bakar dan Umar niscaya telah mengkhilafi ijma'.... maka apabila telah sampai padanya tentang kabar-kabar (keulamaan Abu Bakar dan Umar) dan masih tetap menganggap kafir maka menjadi kafir sendiri.

12. Imam As-Sam'ani menganggap kafir bagi aliran yang mencela para sahabat, seperti dalam kitab al-ansabu: 6/341.

قال رحمه الله: واجتنب الامة على تكفير الإمامية، لأنهم يقتلون فضائل الصحابة، ويكفرون إجماعهم وينسبهم إلى ما لا يليق بهم.

Artinya: Imam Ibnu As-Sam'ani berkata: Umat Islam telah bersepakat di dalam mengkafirkan golongan iman, yah (Syi'ah) karena mereka berkeyakinan bahwa para sahabat telah sesat, mengingkari ijma' mereka dan menisbatkan hal-hal yang tidak pantas bagi mereka.

13. Sesuai yang tertulis dalam kitab Syi'ah Rofidlah (Al-Kafi. 2/634.

قال ابو عبد الله عليه السلام: ان القرآن الذي جاء به جبريل عليه السلام الى محمد صلى الله عليه وسلم سبعة عشر الف آية.

Artinya: sesungguhnya Al-Qur'an yang diturunkan oleh Jibril kepada Nabi Muhammad SAW 17 ribu ayat, maksudnya: mereka menuduh adanya pengurangan dalam Al-Qur'an yang ada hanya berisi 6616 ayat.

14. Dan dalam kitab Syi'ah Rofidlah (al-kafi 8/245)

كان الناس أهل الردة بعد النبي صلى الله عليه وسلم إلا ثلاثة فقلت: ومن الثلاثة؟ فقال: الله! اد ابن الأسود وابو ذر الغفاري وسلمان الفارسي رحمه الله وبركته عليهم.

Artinya: semua manusia setelah wafat Nabi adalah orang-orang murtad kecuali tiga orang, yakni miqdad bin aswan, Abu dzar al-Gifari dan salma Al-Farisi.

15. Dan dalam kitab Haqqul yakin hal. 519 karya Moh. Baqir almajlisi.

وعنه في البيهقي اننا نتره من الأصنام الأربعة أبي بكر وعمر وعثمان ومعاوية، والنساء الأربع عائشة وحليمة وحند وأم حكيم، ومن جميع أتباعهم وأشيائهم، وأولهم شريك الله على وجه الأرض، وأولاه

لا يتم الإيمان بالله ورسوله والأمة إلا بعد التوبة من أفعالهم.

Artinya: kepercayaan kami n.engenai tabarru' ialah bahwa kami terlepas diri empat berhala(Abu Bakr, Umar, Utsman, dan Muawiyah) serta empat orang, wanita (Aisyah, Hupshah, Hindun dan Ummu Hakam) serta semua pengikut mereka dan golongan mereka. Mereka adalah makhluk Allah yang paling jahat di muka bumi. Sesungguhnya tidaklah sempurna keimanan kepada Allah, Rasul-Nya, dan para Imam kecuali jika seseorang telah melepaskan diri dari musuh-musuh mereka.

16. Hadits yang diriwayatkan Imam Muslim

عن علي بن أبي طالب أن رسول الله صلى الله عليه وسلم لما عن منة النساء يوم حبر ومن أكل لحوم الخمر الأسيرة. رواه مسلم

Artinya: Dari Ali bin Abi Tholib, sesungguhnya Rasulullah SAW melarang menikahi perempuan secara nikah mut'ah di waktu perang Khoibar dan memakan daging khimar piaraan.HR.Muslim. Dalam kitab Asyifa' hal.304

ومن أكل حبر عن النبي صلى الله عليه وسلم قال: من جحد أمة من المسلمين فقد حارب الله.

Dari Ibnu Abbas dari Nabi Muhammad SAW, Beliau bersabda: Barangsiapa mengingkari satu ayat dari Kitab Allah dari orang-orang Islam, maka halal dipenggal lehernya.

وقال ابن مسعود رضي الله عنه من كفر بأية من القرآن كفر به كله.

Ibnu Mas'ud berkata-ra: Barangsiapa mengkafiri satu ayat dari Al-Qur'an maka sama halnya mengkafiri seluruh ayat Al Qur'an.

وقد أجمع المسلمون أن القرآن المنثور في جميع انحاء الأرض لا يكتب في المصحف بأيدي المسلمين مما

جمعه النقاد. من أول الحاء: الله إلى قول عبد الله بن عباس: والله كلام الله ووجهه المثل على نبيه محمد صلى الله عليه وسلم

Artinya: sungguh telah bersepakat segenap umat Islam bahwa sesungguhnya Al-Qur'an yang dibaca seluruh dunia yang tertulis dalam Mushaf yang berada di tangan-tangan orang Islam, yang terhimpun dalam catatan dimulai dari surat Al-Fatihah, sampai surat An-Nas. Bahwasanya Al-Qur'an itu adalah kalamullah dan wahyu-Nya yang diturunkan kepada Nabi Muhammad SAW.

17. Dalam kitab Nailur Author:3/65:

عن أبي هريرة رضي الله عنه قال: قال رسول الله صلى الله عليه وسلم ثلاث: بصيام ثلاثة أيام في كل شهر وركعتي الضحى وإن أتى قبل أن تأم. (متفق عليه)

Artinya: Diceritakan oleh Abi Hurairah-ra.lalu berkata:Rasulullah SAW menghimbau kepadaku dengan tiga hal;berpuasa tiga hari dalam setiap bulan,sholat dhuha dua rakaat, dan sholat witir sebelum tidur.

عن أبي قتادة الأنصاري: قال: قال رسول الله صلى الله عليه وسلم: من صوم حرفة فقال: يكفر السنة الماضية

والألفية: وفضل من صوم يوم عاشوراء فقال: يكفر السنة الماضية: وفضل من صوم الاثنين فقال:

ذلك يوم ولد فيه وبعث فيه وإنزل علي الوحي. (متفق عليه)

Artinya: Dari Abi Qotadah Al-Anshori ra. Sesungguhnya Rasulullah SAW ditanya tentang puasa. Arofah, maka Beliau menjawab:Puasa Arofah menghapus dosa setahun yang lalu dan dosa setahun yang akan datang. Dan ditanya tentang puasa hari Asyura,maka beliau menjawab: Puasa Asyura menghapus dosa

setahun yang lalu. Dan beliau ditanya lagi tentang puasa hari senin, maka beliau menjawab: pada hari itu saya dilahirkan, dan saya diutus, dan pada hari itu pula, wahyu diturunkan kepadaku. (Muttafaq alaih)

Dengan bertawakkal kepada Allah SWT

MEMUTUSKAN : Berdasarkan hasil musyawarah Komisi Fatwa dan Pengurus Harian MUI Kab. Sampang.

MENETAPKAN : FATWA TENTANG AJARAN YANG DISEBARKAN TAJUL MULUK DI DESA KARANG GAYAM KEC. OMBEN KAB. SAMPANG:

1. Ajaran yang disebarluaskan oleh Sdr. Tajul Muluk sesat dan menyesatkan;
2. Ajaran yang disebarluaskan oleh Sdr. Tajul Muluk merupakan penistaan dan penodaan terhadap Agama Islam;
3. Pelaku penyebarluasan ajaran tersebut harus dihadapkan ke pengadilan sesuai dengan peraturan perundang-undangan yang berlaku

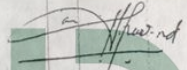
Ditetapkan di : Sampang

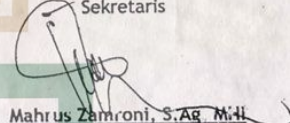
Pada tanggal : 8 Shafar 1433 H
1 Januari 2012 M

KOMISI FATWA
MAJELIS ULAMA INDONESIA (MUI) KABUPATEN SAMPANG

Ketua

Sekretaris


Drs. KH. Mahmud Huzaini


Mahrus Zamroni, S.Ag. M.H.

Mengetahui

DEWAN PIMPINAN MAJELIS ULAMA INDONESIA (MUI)
KABUPATEN SAMPANG

Ketua Umum

Sekretaris Umum


KH. Buchori Ma'shum


Drs. H. Momo Sjauib, M.Si.



Appendix 4.

KEPUTUSAN FATWA

MAJELIS ULAMA INDONESIA

(MUI) PROP. JAWA TIMUR

No. Kep-01/SKF-MUI/JTM/I/2012

Tentang :

TENTANG KESESATAN AJARAN SYI'AH

Majelis Ulama Indonesia Propinsi Jawa Timur pada sidang hari Sabtu, Tanggal 21 Januari 2012

Membaca:

1. Surat Dewan Pimpinan MUI Kabupaten Bangkalan No. 26/26-XV/DP-MUI/BKL/XII/2011 tertanggal 17 Desember 2011 tentang Permohonan Ketetapan Aliran Syi'ah
2. Surat Dewan Pimpinan MUI Kabupaten Sampang No.A-034/MUI/SpG/XII/2011 tertanggal 30 Desember 2011 tentang Laporan Peristiwa di Desa Karang Gayam
3. Surat Keputusan Rapat Koordinasi MUI Kabupaten/Kota Se Koordinatoriat Wilayah (Korwil) Surabaya No. 01/Korwil/Sby/I/2012 tertanggal 12 Januari 2012 tentang Aliran Syi'ah yang isinya meminta kepada MUI Provinsi Jawa Timur untuk melakukan kajian dan penetapan fatwa Syi'ah.
4. Surat Keputusan Rapat Koordinasi MUI Kabupaten/Kota Se Koordinatoriat Wilayah (Korwil) Besuki No. 01/MUI/Besuki/I/2012 tertanggal 13 Januari 2012 tentang Aliran Syi'ah yang isinya meminta kepada MUI Provinsi Jawa Timur untuk melakukan kajian dan penetapan fatwa Syi'ah.
5. Rekomendasi Hasil Musyawarah Badan Shilaturrahmi Ulama Pesantren Madura (BASSRA) Selasa, 03 Januari 2012 yang salah satu isinya meminta agar MUI Provinsi Jawa Timur mengeluarkan fatwa tentang ajaran Syi'ah.
6. Surat dari Jam'iyah Ahlussunnah wal Jama'ah Bangil Pasuruan No. 025/ASWAJA/I/2012 tertanggal 10 Januari 2012 tentang Permohonan Fatwa Sesat Ajaran Syi'ah.
7. Surat Dewan Pimpinan MUI Kabupaten Gresik No. 003/MUI/KAB.G/I/2012 tertanggal 19 Januari 2012 tentang Laporan Keberadaan Syi'ah di Gresik
8. Pernyataan Sikap Gerakan Umat Islam Bersatu (GUIB) Jatim tanggal 17 Januari 2012 menyikapi kasus Sampang dan ajaran Tajul Muluk.
9. Pernyataan Sikap 83 ulama Pondok Pesantren menyikapi aliran yang dibawa oleh saudara Tajul Muluk tanggal 10 Januari 2012.
10. Pernyataan Sikap PCNU Sampang No. 255/PC/A 2/L-36/I/2012 menyikapi ajaran yang dibawa oleh saudara Ali Murtadlo/Tajul Muluk.
11. Laporan Hasil Investigasi Kasus Aliran Syi'ah di Kabupaten Sampang Propinsi Jawa Timur tanggal 9 April 2011.
12. Buku-buku kajian tentang faham Syi'ah antara lain:

1. Al-Milal wa al-Nihal karya al-Syahrastani (hal. 198-203)
2. Al-Fishal fi al-Milal wa al-Ahwa wa al-Nihal karya Ibn Hazm
3. Export Revolusi Syi'ah ke Indonesia karya Achmad Zein Alkaf (al-Bayyinat)
4. Dialog Apa dan Siapa Syi'ah karya Achmad Zein Alkaf (al-Bayyinat)
5. Mengenal Syi'ah Karya Achmad Zein Alkaf (al-Bayyinat)
6. Syi'ah Bukan Islam? Karya Lajnah Ilmiah HASMI
7. Tulisan Abdurrahman Aziz "Siapakah Pendiri Syi'ah"

Menimbang:

1. Bahwa berdasarkan laporan dari masyarakat dan para ulama di beberapa daerah di Jawa Timur dinyatakan bahwa faham Syi'ah Imamiyah Itsna Asyariyah (menggunakan nama samaran Madzhab Ahlul Bait dan semisalnya) telah tersebar di beberapa daerah di Jawa Timur
2. Bahwa adanya indikasi penyebaran faham Syi'ah Imamiyah Itsna Asyariyah (menggunakan nama samaran Madzhab Ahlul Bait dan semisalnya) dilakukan secara masif kepada warga yang menganut faham ahlu al-sunnah wa al-jama'ah.
3. Bahwa telah ditemukan indikasi di beberapa daerah penyebaran faham Syi'ah Imamiyah Itsna Asyariyah (menggunakan nama samaran Madzhab Ahlul Bait dan semisalnya) dilakukan kepada warga yang menganut faham ahlu al-sunnah wa al-jama'ah dari kalangan tidak mampu disertai dengan pemberian dalam bentuk santunan.
4. Bahwa praktik-praktik penyebaran faham Syi'ah Imamiyah Itsna Asyariyah (menggunakan nama samaran Madzhab Ahlul Bait dan semisalnya) yang dilakukan secara masif terhadap masyarakat yang berfaham ahlu al-sunnah wa al-jama'ah, jelas-jelas berpotensi menyulut keresahan dan konflik horisontal.
5. Bahwa berdasarkan penelitian saat ini tidak kurang dari 63 lembaga berbentuk Yayasan, 8 lembaga Majelis Taklim, 9 organisasi kemasyarakatan, dan 8 Sekolah, atau pesantren yang ditengarai mengajarkan/menyebarkan faham Syi'ah.
6. Bahwa konflik-konflik yang melibatkan pengikut faham Syi'ah Imamiyah Itsna Asyariyah (menggunakan nama samaran Madzhab Ahlul Bait dan semisalnya) sudah sering terjadi dan telah berjalan cukup lama sehingga dibutuhkan adanya upaya pemecahan yang mendasar dengan memotong sumber masalahnya. Tanpa upaya pemecahan yang mendasar sangat dimungkinkan konflik akan muncul kembali di kemudian hari dan bahkan berpotensi menjadi lebih besar.
7. Bahwa diantara ajaran yang dikembangkan oleh faham Syi'ah Imamiyah Itsna Asyariyah (menggunakan nama samaran Madzhab Ahlul Bait dan semisalnya) adalah membolehkan bahkan menganjurkan praktik nikah mut'ah (kawin kontrak) yang sangat berpotensi digunakan untuk melegitimasi praktik perzinahan, seks bebas, dan prostitusi serta merupakan bentuk pelecehan terhadap kaum wanita sehingga bila tidak dicegah akan bertolak belakang dengan upaya pemerintah Provinsi Jawa Timur yang telah menaungkan program menata kota bersih asusila dengan menutup tempat-tempat prostitusi.
8. Bahwa penyebaran faham Syi'ah yang diarahkan kepada pengikut ahlu al-sunnah wa al-jama'ah patut diwaspadai adanya agenda-agenda tersembunyi, mengingat penduduk Indonesia yang berfaham pengikut ahlu al-sunnah wa al-jama'ah tidak cocok apabila syi'ah dikembangkan di Indonesia.

9. Bahwa diperlukan adanya pedoman untuk membentengi aqidah umat dari aliran yang menyimpang dari faham ahlu al-sunnah wa al-jama'ah (dalam pengertian yang luas).

Memperhatikan :

1. Keputusan Fatwa MUI tanggal 7 Maret 1984 tentang Faham Syi'ah yang menyatakan bahwa faham Syi'ah mempunyai perbedaan pokok dengan Ahlu al-sunnah wa al-jama'ah yang dianut oleh umat Islam di Indonesia.
2. Keputusan Ijtima Ulama Komisi Fatwa MUI se-Indonesia II 26 Mei 2006 tentang Taswiyat al-Manhaj (Penyamaan Pola Pikir Dalam Masalah-masalah Keagamaan) khususnya butir (4) dan butir (6) yang menyatakan bahwa perbedaan yang dapat ditolerir adalah perbedaan yang berada di dalam majal al-ikhtilaf (wilayah perbedaan) yaitu wilayah pemikiran yang masih berada dalam koridor ma ana alaihi wa ashshaby yakni faham keagamaan ahlu al-sunnah wa al-jama'ah (dalam pengertian luas), sedangkan di luarmajal al-ikhtilaf tidak dikategorikan sebagai perbedaan, melainkan penyimpangan.
3. Keputusan Ijtima Ulama Komisi Fatwa MUI se-Indonesia II 26 Mei 2006 tentang Peneguhan Bentuk dan Eksistensi NKRI.
4. Keputusan MUI tertanggal 6 Nopember 2007 tentang 10 kriteria aliran sesat/ menyimpang.
5. Telaah terhadap kitab yang menjadi rujukan dari faham syi'ah antara lain:
 1. al-Kafi
 2. Tahdzib al-Ahkam
 3. al-Istibshar
 4. Man La Yahdluru al-Faqih
 5. Buku-buku Syi'ah yang lain seperti: Bihar al-Anwar, Tafsir al-Qummi, Fashl al-khithab fi itsbat tahrifi kitabi rabbi al-Arbab, Kasyfu al-Asrar li al-Musawi.
 6. Buku-buku Syi'ah berbahasa Indonesia antara lain: Saqifah Awal Persefisihan Umat tulisan O. Hashem; Shalat Dalam Madzhab Ahlul Bait tulisan Hiayatullah Husein al Habsyi; Keluarga Suci Nabi Tulisan Ali Umar al-Habsyi

Berdasarkan kitab-kitab tersebut dapat diketahui adanya perbedaan yang mendasar dengan ahlu al-sunnah wa al-jama'ah (dalam pengertian luas) tidak saja pada masalah furu'iyah tetapi juga pada masalah ushuliyah (masalah pokok dalam ajaran Islam) diantaranya:

1. Hadits menurut faham Syi'ah berbeda dengan pengertian ahlu al-sunnah. Menurut Syi'ah hadits meliputi af'al, aqwal, dan taqirir yang disandarkan tidak hanya kepada Nabi Muhammad Saw tetapi juga para imam-imam Syi'ah.
2. Faham syi'ah meyakini bahwa imam-imam adalah ma'shem seperti para nabi.
3. Faham Syi'ah memandang bahwa menegakkan kepemimpinan Imamah) termasuk masalah aqidah dalam agama.
4. Faham Syi'ah mengingkari Otentistas Al-Qur'an dengan mengimani adanya tahrif al-Qur'an

أ. عن جابر قال سمعت ابا جعفر عليه السلام يقول: ما ادعى أحد من الناس أنه جمع القرآن كله كما أنزل إلا كذاب. ورواه
جمعه وحفظه كما نزل الله تعالى إلا علي بن ابي طالب عليه السلام و الائمة من بعده عليهم السلام (اصول الكافي ج 1/ص
(284

ب. عن أبي جعفر عليه السلام أنه قال: ما يستطيع أحد أن يدعي أن عنده جميع القرآن كله ظاهره وباطنه غير الاوصياء (اصول الكافي ج 1/ص 284-285)

ت. عن أبي عبد الله عليه السلام قال: ان القرآن الذي جاء به جبريل عليه السلام إلى محمد صلى الله عليه وسلم سبعة عشر ألف آية (اصول الكافي ج 2/باب النوادر، رقم 28)

1. Faham Syi'ah meyakini turunnya wahyu setelah al-Qur'an yakni yang disebut mushaf Fatimah

أ. إن الله تعالى لما قبض نبيه صلى الله عليه وآله دخل على فاطمة عليها السلام من وفاته من الحزن ما لا يعلمه إلا الله عز وجل فأرسل الله إليها ملكاً يسلي عنها ويحدثها، فشكت ذلك إلى أمير المؤمنين عليه السلام فقال: إذا أحسست بذلك وسمعت الصوت قل لي فاعلمته بذلك فجعل أمير المؤمنين عليه السلام يكتب كل ما سمع حتى أثبت من ذلك مصحفاً قال: ثم قال: أما إنه ليس فيه شيء من الحلال والحرام ولكن فيه علم ما يكون (اصول الكافي ج 1/ص 296)

ب. وإن عندنا لمصحف فاطمة عليها السلام وما يدرهم ما مصحف فاطمة عليها السلام؟ قال: قلت: وما مصحف فاطمة عليها السلام؟ قال: مصحف فيه مثل قرآنكم هذا ثلاث مرات، والله ما فيه من قرآنكم حرف (اصول الكافي ج 1/ص 290)

1. Syi'ah banyak melakukan penafsiran al-Qur'an yang mendukung faham mereka antara lain melecehkan sahabat Nabi Saw. Misalnya penulis Tafsir al-Qummi menafsirkan kalimat dalam surat al-Hajj ayat 52

الَّذِي الشُّرُطَانُ فِي أُمْنِيَّتِهِ: يعني أبا بكر وعمر (تفسير القمي ص. 259)

1. Syi'ah meyakini bahwa para sahabat telah murtad sesudah wafatnya Rasulullah Saw, kecuali tiga orang.

عن أبي جعفر قال: كان الناس أهل ردة بعد النبي صلى الله عليه وآله إلا ثلاثة قتل: ومن الثلاثة؟ قال: المقداد بن الأسود وأبو ذر الغفاري وسلمان الفارسي رحمة الله وبركاته عليهم (روضة الكافي ص 198 ر. 341، بحار الانوار ج 22/ص 333)

1. Faham Syi'ah meyakini bahwa orang yang tidak mengimani terhadap imam-imam Syi'ah adalah syirik dan kafir

إعلم أن إطلاق لفظ الشرك والكفر على من لم يعتنق بإمامة أمير المؤمنين والائمة من ولده عليهم السلام وفضل عليهم غيرهم يدل على أنهم كفار مخلدون في النار (بحار الانوار ج 23/ص 390)

1. Faham Syi'ah melecehkan sahabat Nabi Saw. Termasuk Abu Bakar ra dan Umar ra.

أ. ومن الجبت أبو بكر ومن الطاغوت عمر والشياطين بني أمية وبني العباس (شرح الزيارة الجامعة الكبيرة ج 3/ص 156)

ب. وإن الشيخين (أبا بكر وعمر) قارقاً الدنيا ولم يتوبوا ولم يتذكروا ما صنعوا بأمر المؤمنين فعليهما لعنة الله والملائكة والناس أجمعين (روضة الكافي/ص 198، رقم 343، كشف الأسرار وتبوية الأئمة الأطهار ص 84)

1. Faham Syi'ah meyakini bahwa orang yang selain Syi'ah adalah keturunan pelacur

والله يا أبا حمزة إن الناس كلهم أولاد بغايا ما خلا شيعتنا (روضة الكافي: ص 227 رقم 431)

1. Faham Syi'ah membolehkan bahkan mengajurkan praktik nikah mut'ah.

الْبَاطِلُ مَا قَالَ مُسْلِمٌ بَيْنَ قَتْلِ يَمْرُوكَ أَنْ يَسَاءَكَ وَبَثْلِكَ وَ أَخَوَاتِكَ وَ بَثْلِكَ يَقْتُلُكَ قَالَ قَالَ عَزْرُضُ عَنْهُ أَبُو جَعْفَرٍ عَلَيْهِ السَّلَامُ ذَكَرَ نِسَاءَهُ وَ بَثْلَتِ عَنْهُ (فروع الكافي ج 3/ص 455)

عَنْ زُرَّارَةَ قَالَ جَاءَ عَبْدُ اللَّهِ بْنُ عَمْرِو بْنِ اللَّيْثِيِّ إِلَى أَبِي جَعْفَرٍ فَظَلَّمَ عَلَيْهِ السَّلَامُ يَقُولُ فِي مَتْعَةِ النِّسَاءِ فَقَالَ أَحَدُهَا اللَّهُ فِي كِتَابِهِ وَ عَلَى لِسَانِ نَبِيِّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالَ يَا أَبَا جَعْفَرٍ مِثْلُكَ يَقُولُ هَذَا وَ قَدْ خَرَّمَهَا عُمَرُ بْنُ الْوَلِيدِ فَظَلَّمَ فَقَالَ لِي أَبِي عَمْرٍو بِاللهِ مِنْ ذَلِكَ أَنْ تَحُلَّ شَيْئًا حَرَّمَ عَلَى قَلْبِكَ فَقَالَ عَلَى قَوْلِ صَاحِبِكَ وَ أَنَا عَلَى قَوْلِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَ لَكَ أَنْ أَقُولَ مَا قَوْلَ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَنْ

الْحَسَنِيُّ بْنُ مُحَمَّدٍ عَنْ عَمْرِو بْنِ مَيْمُونٍ عَنْ أَبِي جَعْفَرٍ عَنْ عَمْرِو بْنِ زُرَّارَةَ عَنْ أَبِي عَمْرٍو عَنْ أَبِي عَبْدِ اللَّهِ عَلَيْهِ السَّلَامُ أَنَّهُ قَالَ لِعَمْرِو بْنِ الْوَلِيدِ مَا قَوْلُكَ فَقَالَ مِثْلُكَ يَقُولُ هَذَا وَ قَدْ خَرَّمَهَا عُمَرُ بْنُ الْوَلِيدِ فَقَالَ لِي أَبِي عَمْرٍو بِاللهِ مِنْ ذَلِكَ أَنْ تَحُلَّ شَيْئًا حَرَّمَ عَلَى قَلْبِكَ فَقَالَ عَلَى قَوْلِ صَاحِبِكَ وَ أَنَا عَلَى قَوْلِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَ لَكَ أَنْ أَقُولَ مَا قَوْلَ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَنْ

1. Ajaran Syi'ah menghalalkan darah ahlu al-sunnah

ولهذا أباحوا دماء أهل السنة وأموالهم فعن داود بن فرقد قال: قلت لأبي عبد الله ما تقول في قتل الناصب؟ قال: حلال الدم، ولكنني أتقي عليك، فإن قدرت أن تقتل عليه حائطاً أو تغرقه في ماء كليلاً يشهد عليك فافعل (كشف الأسرار وتبصرة الأئمة الأطهار ص 85 ؛ بحار الأنوار ج 27/ 231)

1. Ajaran Syi'ah melecehkan Nabi dan Ummul Mu'minin

إن النبي صلى الله عليه وآله لا بد أن يدخل فرجه النار ، لأنه وطئ بعض المشرقات) يريد بذلك زواجه من عائشة وحفصة، وهذا كما هو معلوم فيه إساءة إلى النبي صلى الله عليه وآله، لأنه لو كان فرج رسول الله صلى الله عليه وآله يدخل النار فلن يدخل الجنة أحد أبداً (كشف الأسرار وتبصرة الأئمة الأطهار ص 24-25)

1. Ajaran Syi'ah juga mempunyai doktrin **Thinah** (thinat al-mu'min wa al-kafir) yaitu doktrin yang menyatakan bahwa dalam penciptaan manusia ada unsur tanah putih dan tanah hitam. Pengikut Syi'ah tercipta dari unsur tanah putih sedangkan Ahlu al-sunnah berasal dari tanah hitam. Para pengikut Syi'ah yang tersusun dari tanah putih jika melakukan perbuatan maksiat dosanya akan ditimpakan kepada pengikut ahlu al-sunnah (yang tersusun dari tanah hitam) sebaliknya pahala yang dimiliki oleh pengikut Ahlu al-sunnah akan diberikan kepada para pegikut Syi'ah. Doktrin ini merupakan doktrin yang tersembunyi dalam ajaran Syi'ah. (al-Kafi Juz II / Kitab al-Iman, bab thinat al-mu'min wa al-kafir)
2. Dan masih banyak lagi keganjilan yang lain
3. Adanya fakta para pengikut Syi'ah menjadikan buku-buku sebagaimana tersebut pada butir 5 sebagai kitab rujukannya.
4. Keputusan Fatwa MUI Kabupaten Sampang No. A-035/MUI/Sp/1/2012 tentang Ajaran Yang Disebarluaskan Sdr Tajul Muluk di Kecamatan Omben, Kabupaten Sampang.
5. Keputusan Rapat Badan Koordinasi Pengawasan Aliran Kepercayaan Masyarakat (BAKOR PAKEM) Kabupaten Sampang tanggal 04 Januari 2012 tentang kesesatan ajaran yang disebarluaskan oleh sdr Tajul Muluk.
6. Keputusan Rapat Koordinasi MUI Kabupaten Se Koordinatoriat Wilayah (KORWIL) Madura No. 01/MUI/KD/MDR/1/2012 tentang Ajaran Syi'ah atau aliran Syi'ah Imamiyah Itsna Asyariyah

Bukanlah menghadapkan wajahmu ke arah timur dan barat itu suatu kebajikan, akan tetapi sesungguhnya kebajikan itu ialah beriman kepada

Allah, hari kemudian, malaikat-malaikat, kitab-kitab, nabi-nabi dan memberikan harta yang dicintainya kepada kerabatnya, anak-anak yatim, orang-orang miskin, musafir (yang memerlukan pertolongan) dan orang-orang yang meminta-minta; dan (memerdekakan) hamba sahaya, mendirikan shalat, dan menunaikan zakat; dan orang-orang yang menepati janjinya apabila ia berjanji, dan orang-orang yang sabar dalam kesempitan, penderitaan dan dalam peperangan. Mereka itulah orang-orang yang benar (imannya); dan mereka itulah orang-orang yang bertakwa.

1. Firman Allah Surat al-Qamar ayat 49

إِذَا كُلُّ شَيْءٍ عَرِضٌ فَتَقْدَرُ

Sesungguhnya Kami menciptakan segala sesuatu menurut ukuran.

1. Firman Allah Surat al-Hijr ayat 9

إِذَا نَحْنُ نَزَّلْنَا الذِّكْرَ وَإِذَا لَهُ لَحَافِظُونَ

Sesungguhnya Kami-lah yang menurunkan Al Qur'an, dan sesungguhnya Kami benar-benar memeliharanya.

1. Firman Allah Surat al-Fath ayat 29

اللَّهُمَّ صَلِّ عَلَى سَيِّدِنَا مُحَمَّدٍ وَعَلَى آلِهِ وَوَحِّدْ لَهُمْ وَأَعِزِّهِمْ فِي الدُّنْيَا وَالْآخِرَةِ وَأَجْزِلْ كَرْزُخَ آخِرِ حَقَائِقِهِ وَأَسْتَعِظُ قَائِمَتِي عَلَى مَدْفَعِهِ يَعْجِبُ الزُّرَّاعُ لِيُعْطِيَ بِهِمُ الْكَافِرُ وَعَذَابُ الشُّرَّاءِ لِيُؤْثِرَهُ لَوْ أَنَّ الصَّالِحِينَ مَرَّتُهُمْ مَغْفِرَةٌ وَأَجْرًا عَظِيمًا

Muhammad itu adalah utusan Allah dan orang-orang yang bersama dengan dia adalah keras terhadap orang-orang kafir, tetapi berkasih sayang sesama mereka, kamu lihat mereka ruku' dan sujud mencari karunia Allah dan keridhaan-Nya, tanda-tanda mereka tampak pada muka mereka dari bekas sujud. Demikianlah sifat-sifat mereka dalam Taurat dan sifat-sifat mereka dalam Injil, yaitu seperti tanaman yang mengeluarkan tunasnya maka tunas itu menjadikan tanaman itu kuat lalu menjadi besarlah dia dan tegak lurus di atas pokoknya; tanaman itu menyenangkan hati penanam-penanamnya karena Allah hendak menjengkelkan hati orang-orang kafir (dengan kekuatan orang-orang mu'min). Allah menjanjikan kepada orang-orang yang beriman dan mengerjakan amal yang saleh di antara mereka ampunan dan pahala yang besar.

1. Firman Allah Surat al-Taubah ayat 100

لَا تُؤْتُوا مِنْهُمْ جُزْءًا مِنْ دِينِهِمْ وَلَا يَكُونُوا أَعْدَاءً لَهُمْ جَاءَتْكُمْ يُنَادِيهِمْ فِي أَرْبَابِهِمْ لَا إِلَهَ إِلَّا هُوَ يُقِيمُ الْحَقَّ وَلَا يَتَّبِعُونَ إِلَّا مَحْيَاةَ الْغَيْبِ

Orang-orang yang terdahulu lagi yang pertama-tama (masuk Islam) di antara orang-orang muhajirin dan anshar dan orang-orang yang mengikuti mereka dengan baik, Allah ridha kepada

mereka dan merekapun ridha kepada Allah dan Allah menyediakan bagi mereka surga-surga yang mengalir sungai-sungai di dalamnya; mereka kekal di dalamnya selama-lamanya. Itulah kemenangan yang besar.

1. Hadits-hadits Marfu

عَنِ الْإِمَامِ الْقَاضِي خَيْرِ رَقِيقٍ مِنْ بَرَاءَةِ اللَّهِ وَمَلَأَ نِكَتِهِ وَكَثِيرِهِ وَرُسُلِهِ وَالْيَوْمَ وَالْأَثْوَنَ بِرِأْسِهِ وَخَيْرِهِ وَشَرِّهِ (رواه مسلم)

Bertanya Jibril as: Beritahukan aku tentang Iman “. Lalu beliau bersabda: “ Engkau beriman kepada Allah, malaikat-malaikat-Nya, kitab-kitab-Nya, rasul-rasul-Nya dan hari akhir dan engkau beriman kepada takdir yang baik maupun yang buruk” (Shahih Muslim Jilid 1/hal 23)

بَنِي الْإِسْبَاطِ لَا مُمْسِكِينَ عَلَى الْأَعْمَالِ طَالَمَا سَأَلَ اللَّهُ وَإِقَامَ الصَّلَاةَ وَإِيتَاءَ الزَّكَاةَ وَالْحَجَّ وَصَوْفِهِ مُضْدَانٌ
(رواه البخاري)

Islam Dibangun Diatas Lima (Landasan); Persaksian Tidak Ada Ilah Melainkan Allah Dan Sesungguhnya Muhammad Utusan Allah, Mendirikan Shalat, Menunaikan Zakat, Haji Dan Puasa Ramadhan (Shahih al-Bukhari, Juz I/hal 54 hadits No.8)

مَنْ قَالَ فِي الْقُتُبَانِ بِغَيْرِ عِلْمٍ فَلَا يَتْبَرَأُ مَقْعَدُهُ مِنَ النَّارِ

Barang siapa berbicara tentang al-Qur'an tanpa ilmu (yang memadai) maka hendaklah dia mempersiapkan kedudukannya di neraka" (HR al-Tirmidzi/Sunan al-Tirmidzi V/1999 No. 2950)

وَمَنْ قَالَ فِي الطُّغْرَانِ بَرًّا بِرَبِّهِ فَلَا يَتَّبِعُوهُ مَقْعَدُهُ مِنَ النَّارِ

“Barang siapa berbicara tentang al-Qur’an berdasarkan nalarnya saja maka hendaklah dia mempersiapkan kedudukannya di neraka” (HR al- Tirmidzi/Sunan al-Tirmidzi V/1999 hadits No. 2951)

قَالَ رَسُولُ اللَّهِ ﷺ لَا تَسْبُوا أَصْحَابِي فَإِنِّي لَفِي سَبِيلِكُمْ أَتَقِفُونَ مِثْلَ أُحُدٍ ذَهَبًا أَمْ أُنْذِرُكُمْ مِثْلَ أُحُدِهِمْ وَلَا تُصْرِفُهُ

Telah bersabda-Rasulullah Saw: "Janganlah kalian mencera para sahabatku. Demi Dzat yang jagwaku ada di tangan-Nya, kalau seandainya salah seorang di antara kalian berinafaq emas sebesar gunung Uhud maka tidak akan dapat menandingi satu mud dari mereka bahkan tidak pula setengahnya" (HR. Al-Bukhari, dalam Shahih al-Bukhari Juz II/hal 347 No. 3546; Muslim, dalam Shahih Muslim Jilid II/hal. 1171; dan al-Tirmidzi dalam Sunan al-Tirmidzi Juz V/hal. 696 hadits No. 3761).

سَمِعْنَا اللَّهَ صَلَّحَ إِلَهُنَّ عَلَيْهِ وَسَلَّمَ اللَّهُ فِي أَصْحَابِي اللَّهِ فِي أَصْحَابِي لَهُمْ نَشْرٌ ضَائِعُ بَعْدِي فَمَنْ أَحَبَّهُمْ فَيَدْعِيهِمْ وَمِنْ أَعْضَاهُمْ فَيُدْعِيهِمْ فَلْيَقْطَعْهُمُ عَنْ يَوْمِئِذٍ أَنَا ذِي اللَّهِ وَمَنْ آذَى اللَّهَ يُوشِكُ أَنْ يَأْخُذَهُ

Takutlah kepada Allah, takutlah kepada Allah mengenai sahabat-sahabatku. Janganlah kamu menjadikan mereka sebagai sasaran caci-maki sesudah aku tiada. Barangsiapa mencintai mereka,

maka semata-mata karena mencintaiku. Dan barang siapa membenci mereka, maka berarti semata-mata karena membenciku. Dan barangsiapa menyakiti mereka berarti dia telah menyakiti aku, dan barangsiapa menyakiti aku berarti dia telah menyakiti Allah. Dan barangsiapa telah menyakiti Allah dikhawatirkan Allah akan menghukumnya. (HR al-Tirmidzi dalam Sunan al-Tirmidzi Juz V/hal. 696 hadits No. 3762)

عن عُمَرَ بْنِ سَاعِدَةَ أَنَّ رَسُولَ اللَّهِ ﷺ قَالَ: «لِي أَصْحَابٌ، فَجَعَلَ لِي مِنْهُمْ وَزَرَاءَ وَأَنْصَارًا أَصْهَارًا، فَمَنْ سَبَّهُمْ فَعَلَيْهِ لَعْنَةُ اللَّهِ، وَالْمَلَأَ لُجَّتَهُنَّ وَالْجَمْعِينَ، اللَّهُ يَعْلَمُ يَوْمَ الْقِيَامَةِ صَرْفًا وَلَا عَدْلًا» (أخرجه أبو نعيم في معرفة الصحابة ج 3/ص 1745؛ رقم 4424؛ والطبراني في الأوسط ج 1/ص 272 رقم 456؛ والحاكم في المستدرک ج 4/ص 68 رقم 2735)

Dari Uwaim bin Sa'idah ra, sesungguhnya Rasulullah shallallahu alaihi wasallam bersabda: "Sesungguhnya Allah Ta'ala telah memilih diriku, lalu memilih untukku para sahabat dan menjadikan mereka sebagai pendamping dan penolong. Maka siapa yang mencela mereka, atasnya laknat dari Allah, para malaikat dan seluruh manusia. Allah Ta'ala tidak akan menerima amal darinya pada hari kiamat, baik yang wajib maupun yang sunnah".

إِذَا كَفَّرَ الرَّجُلُ أَخَاهُ فَقَدْ بَاءَ بِرَأْسِهِمَا

"Jika seseorang mengkafirkan saudaranya, maka sesungguhnya kalimat itu kembali kepada salah satu dari keduanya." (HR Muslim, dalam Shahih Muslim Jilid I/hal 47 hadits No. 111, hadits senada diriwayatkan oleh al-Bukhari, Juz III/hal. 408 No.5883)

عَنْ أَبِي ذَرٍّ رَضِيَ اللَّهُ عَنْهُ أَنَّ رَسُولَ اللَّهِ ﷺ قَالَ: «لَنْ يَرْمِيَ رَجُلٌ رَجُلًا بِالْكَفْرِ، وَلَا يَرْمِيهِ بِالْكَفْرِ إِلَّا ارْتَدَّتْ عَلَيْهِ إِنْ لَمْ يَكُنْ صَاحِبَهُ كَذَلِكَ»

Dari Abi Dzar ra bahwa dia mendengar Rasulullah Saw bersabda: "Tidaklah seseorang melemparkan tuduhan kepada yang lain dengan kefasikan, dan tidak pula melemparkan tuduhan kepada yang lain dengan kekafiran, melainkan hal itu akan kembali kepadanya apabila yang dituduh ternyata tidak demikian". (HR al-Bukhari, Shahih Bukhari Juz III/ hal. 396, No. 582)

لَأَسْرِ بِقِيَّتِي مِنْ هَؤُلَاءِ مَالِهِ أَبَا بَكْرٍ، وَلَوْ كَذَّبْتُ مُتَّخِذًا خَلِيلًا تَخَفْتُمْ رَأْيِي بِالْأَزْرِ، وَلَكِنْ أَخُوهُ إِلَّا سَلَامٌ وَمَوْدَّةٌ

Sesungguhnya manusia yang paling terpercaya di sisiku dengan harta dan jiwanya adalah Abu Bakar. Seandainya aku memilih kekasih, selain Tuhanku maka aku akan memilih Abu Bakar, Akan tetapi yang ada adalah persaudaraan Islam dan berkasih sayang dalam Islam. (HR al-Bukhari, Juz II/hal 344 No. 6529; hadits senada diriwayatkan oleh Muslim, Shahih Muslim Jilid II/hal 1119)

لَ رَسُولُ اللَّهِ ﷺ عَلَيْهِ وَسَلَّمَ أَقْنَبُوا بِاللَّذِينَ مِنْ بَعْدِي أَبِي بَكْرٍ وَعُمَرُ

Rasulullah Saw bersabda: "ikutilah teladan orang-orang setelahku yaitu Abu Bakar dan Umar (HR al-Tirmidzi, Juz V/hal 609 No. 3662)

عَنْ عَبْدِ الرَّحْمَنِ بْنِ عَوْفٍ قَالَ قَالَ رَسُولُ اللَّهِ ﷺ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فِي الْجَنَّةِ وَعُمْرُ فِي الْجَنَّةِ وَعَدْمَانُ فِي النَّارِ وَيُطْلَقُ فِي الْجَنَّةِ وَالزُّبَيْرُ فِي الْجَنَّةِ وَعَبْدُ الرَّحْمَنِ بْنُ عَوْفٍ فِي الْجَنَّةِ فِي الْجَنَّةِ وَسَعِيدُ فِي الْجَنَّةِ وَأَبُو عُبَيْدَةَ بْنُ الْجَرَّاحِ فِي الْجَنَّةِ

Dari Abdurrahman bin Auf dia berkata; Rasulullah Saw bersabda: “Abu Bakar di syurga, Umar di syurga, Utsman di syurga, Ali di syurga, Thalbah di syurga, Zubair di syurga, Abdurrahman ibn Auf di syurga, Sa’ad (ibn Abi Waqqash) di syurga, Said (ibn Zaid ibn Amru ibn Nufail) di syurga, Abu Ubaidah ibn al-Jarrah di syurga” (HR al-Tirmidzi, Juz V/hal 647 hadits No. 3747)

ن. عَلِيٌّ وَنُجَيْشٌ وَخُزَيْمَةُ بْنُ مُحَمَّدٍ عَنْ أَبِيهِمَا أَنَّ عَلِيًّا رَضِيَ اللَّهُ عَنْهُ قَالُوا لِعَبَّاسٍ إِنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ نَهَى عَنْ الْأَمَةِ عَنْ لَحْدِ الْأَحْمَرِ الْأَحْمَرِ زَمَنَ خَيْرٍ

Dari Muhammad bin Ali dan saudaranya Abdullah bin Muhammad dari Bapak keduanya bahwasanya Ali Ra berkata kepada Ibnu Abbas sesungguhnya Nabi saw melarang mut’ah dan makan daging keledai jinak pada masa perang khaibar. (HR al-Bukhari, Juz III/hal 200, hadits No. 4925)

سَلَّمَ عَنْ أَبِي بَالِغَةَ قَالَ قَالَ رَسُولُ اللَّهِ ﷺ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَامَ أُوطَاسٍ فِي الْحَنْظَلَةِ ثَامُ نَهَى عَنْهَا

Dari Iyas bin Salamah dari ayahnya berkata : Rasulullah memperbolehkan nikah mut’ah pada saat perang autas selama tiga hari lalu melarangnya. (HR. Muslim, Shahih Muslim Jilid II/hal. 633)

1. Hadits Mauquf kepada Ali ra.

الْحَنْظَلَةُ فَهَرَبَتْ لَهَا بِي أَبِي الدَّاسِ خَيْرٌ بَعْدَ رَسُولِ اللَّهِ ﷺ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَتْ ثُمَّ مَنْ قَالَ ثُمَّ عُمَرُ خَيْرٌ أَنْ يَقُولَ عَدْمَانُ قَالَتْ ثُمَّ أَنْتَ قَالَ لَا أَتَاكُلُ مِنَ الْمُسْلِمِينَ

Dari Muhammd bin Hanafiyah dia berkata; Aku bertanya kepada bapakku (yakni Ali bin Abi Thalib radhiallahu ‘anhu): Siapakah manusia yang terbaik setelah Rasulullah ? beliau menjawab: “Abu Bakar”. Aku bertanya (lagi): “Kemudian siapa?”. Beliau menjawab: “Umar”. Dan aku khawatir beliau akan berkata Utsman, maka aku mengatakan: “Kemudian engkau?” Beliau menjawab: “Bukan aku kecuali seorang dari kalangan muslimin”. (diriwayatkan oleh al-Bukhari dalam Shahih Bukhari Juz II/hal 347 No.3544)

1. Pendapat Para Ulama

1. Pendapat Imam Malik

روى الخلال عن أبي بكر المروزي عن أبي عبد الله ﷺ يقول في الحديث: «أَصْحَابُ النَّبِيِّ ﷺ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لَيْسَ لَهُ سَهْمٌ، أَوْ قَالَ تَصْرِبُ فِيهِ لَا سَلَامَ» (الخلال / السنن: ٥٥٧، ٢)

Al Khalal meriwayatkan dari Abu Bakar Al Marwazi, katanya : Saya mendengar Abu Abdullah berkata, bahwa Imam Malik berkata : “Orang yang mencela sahabat-sahabat Nabi, maka ia tidak termasuk dalam golongan Islam” (Al Khalal / As Sunnah, 2-557)

1. Pendapat Imam Ahmad

روى الخلال عن أبي بكر المروزي قال: سألت أبا بكر، وعمر، وعائشة؟ قالوا: آله على الإسلام (الخلال / السنة : ٢، ٥٥٧)

Al Khalal meriwayatkan dari Abu Bakar Al Marwazi, ia berkata : “Saya bertanya kepada Abu Abdullah tentang orang yang mencela Abu Bakar, Umar dan Aisyah? Jawabnya, saya berpendapat bahwa dia bukan orang Islam”. (Al Khalal / As Sunnah, 2-557).

1. Pendapat Ibnu Hazm

فإن الروافض ليسوا من المسلمين إنما هي فرق حدث أولها بعد موت النبي صلى الله عليه وسلم بخمسين سنة وكان مبدؤها إجابة من ختله الله تعالى لدعوة من كاد الإسلام وهي طائفة تجزي مجرى اليهود والنصارى في الكذب والكفر

Sesungguhnya rofidhoh bukanlah dari kalangan kaum muslimin, kelompok ini mula-mula muncul 25 tahun setelah Nabi –shollallohu ‘alaihi wa sallam - wafat. Dan asalnya bermula dari mengikuti dakwah seorang yang Alloh hinakan yang hendak memerangi Islam kelompok ini berjalan di atas jalannya orang-orang Yahudi dan Nasrani dalam kedustaan dan kekufuran. (Al-Fishol fil-milal 2/213)

1. Pendapat KH Hasyim Asyari (Rois Akbar PBNU)

سَدَّعَ بِمَا تَوَدَّعَ لِيُذْغَمِعَ الْإِدْغَمَ عَنْ أَهْلِ الْمَدَرِ وَالْخَجَرِ . قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: لَتَأْتِيَنَّ الْفِتْنُ أَوْ الْإِدْغَمُ وَتُبْ رَأْسُكُمْ بِحَبْلِ الْفِتْنَةِ لَمْ يَفْعَلْ ذَلِكَ فَعَلَيْهِ لَعْنَةُ اللَّهِ وَالْمَلَائِكَةِ وَالنَّاسِ الْجَمْعِينَ

Sampaikan secara terang-terangan apa yang diperintahkan Allah kepadamu, agar bid'ah-bid'ah terberantas dari semua orang. Rasulullah SAW bersabda: “Apabila fitnah-fitnah dan bid'ah-bid'ah muncul dan sahabat-sahabatku di caci maki, maka hendaklah orang-orang alim menampilkan ilmunya. Barang siapa tidak berbuat begitu, maka dia akan terkena laknat Allah, laknat Malaikat dan semua orang.”(Muqadimah Qanun Asasi Nahdlatul ulama).

MEMUTUSKAN

1. Mengukuhkan dan menetapkan keputusan MUI-MUI daerah yang menyatakan bahwa ajaran Syi'ah (khususnya Imamiyah Itsna Asyariyah atau yang menggunakan nama samaran Madzhab Ahlul Bait dan semisalnya) serta ajaran-ajaran yang mempunyai kesamaan dengan faham Syi'ah Imamiyah Itsna Asyariyah adalah SESAT DAN MENYESATKAN.

1. Menyatakan bahwa penggunaan Istilah Ahlul Bait untuk pengikut Syi'ah adalah bentuk pembajakan kepada ahlu bait Rasulullah Saw.
2. Merekomendasikan:
 1. Kepada Umat Islam diminta untuk waspada agar tidak mudah terpengaruh dengan faham dan ajaran Syi'ah (khususnya Imamiyah Itsna Asyariyah atau yang menggunakan nama samaran Madzhab Ahlul Bait dan semisalnya)
 2. Kepada Umat Islam diminta untuk tidak mudah terprovokasi melakukan tindakan kekerasan (anarkisme), karena hal tersebut tidak dibenarkan dalam Islam serta

bertolak belakang dengan upaya membina suasana kondusif untuk kelancaran dakwah Islam

3. Kepada Pemerintah baik Pusat maupun Daerah dimohon agar tidak memberikan peluang penyebaran paham Syi'ah di Indonesia, karena penyebaran paham Syi'ah di Indonesia yang penduduknya berfaham ahlu al-sunnah wa al-jama'ah sangat berpeluang menimbulkan ketidakstabilan yang dapat mengancam keutuhan NKRI.
4. Kepada Pemerintah baik Pusat maupun Daerah dimohon agar melakukan tindakan-tindakan sesuai dengan peraturan perundangan yang berlaku antara lain membekukan/melarang aktivitas Syi'ah beserta lembaga-lembaga yang terkait.
5. Kepada Pemerintah baik Pusat maupun Daerah dimohon agar bertindak tegas dalam menangani konflik yang terjadi, tidak hanya pada kejadiannya saja, tetapi juga faktor yang menjadi penyulut terjadinya konflik, karena penyulut konflik adalah provokator yang telah melakukan teror dan kekerasan mental sehingga harus ada penanganan secara komprehensif.
6. Kepada Pemerintah baik Pusat maupun Daerah dimohon agar bertindak tegas dalam menangani aliran menyimpang karena hal ini bukan termasuk kebebasan beragama tetapi penodaan agama.
7. Kepada Dewan Pimpinan MUI Pusat dimohon agar mengukuhkan fatwa tentang kesesatan Fahaman Syi'ah (khususnya Imamiyah Itsna Asyariyah atau yang menggunakan nama samaran Madzhab Ahlul Bait dan semisalnya) serta ajaran-ajaran yang mempunyai kesamaan dengan fahaman Syi'ah sebagai fatwa yang berlaku secara nasional.

Surabaya 27 Shofar 1433 H

21 Januari 2012 M

DEWAN PIMPINAN

MAJELIS ULAMA INDONESIA (MUI)

PROPINSI JAWA TIMUR

Ketua Umum

KH. Abdesshomad Buchori

Sekretaris Umum

Drs. H Imam Tabroni, MM

CURRICULUM VITAE (CV)

Name : Mukhsin Achmad, S.Ag.,M.Ag.
Date of Birth : Magelang, 07 September 1978
Address : Karangwaru Kidul TR II/502
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The Office : The Masjid Syuhada Foundation in
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Position : Director Executive
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Father's Name : H. Achmad Suhadi
Mother's Name : (RIP) Zaenab
Wife : Uswatun Hasanah, S.E.
Children : 1. Renaissa Fikria Annajah,
2. Atika Tanalina Amira,
3. Aida Arifia Billah

Formal Education:

- 1986 -1992. Elementary School “MI Al Jihad Kebonrejo I”, Salaman, Magelang
- 1992 – 1994. Junior high School “MTs N Magelang”
- 1994-1996 , Senior high School Special Program “MAPK Yogyakarta”
- 1996-2001, Undergraduate program of Islamic Law, on Islamic law Faculty of Islamic State University
- 2001- 2004, Master on Religion and Philosophy on post-graduate program of Islamic State University Yogyakarta
- 1996-2001, Undergraduate program of Islamic Law, on Islamic law Faculty of Islamic State University
- 2015- 2019, Awardee of Scholarship from LPDP for Ph. D Program UIN Sunan Kalijaga at Major Islamic Thought and Muslim Societies (ITMS)

- 2016-2017, Sandwich Program at Radboud University, Nijmegen, The Netherlands
- 2016, NISIS and NOSTER autumn School at Vrije University, Amsterdam, The Netherlands.
- 2018, 7- 14 July, USPPIP, Summer school at Institute of Arab and Islamic Studies in Exeter University, United Kingdom.

Organizational Experience:

- 1996, The Chairman of “Coprs of Reformer” of Indonesian Islamic Student Movement (PMII) at The Islamic Law Faculty IAIN Sunan Kalijaga
- 1998-1999, The Chairman of HMJ AS (Himpunan Mahasiswa Jurusan Ahwal Syakhsiyyah) at Islamic law Faculty of IAIN Sunan Kalijaga.
- 2008- Present, The Chairman of “Mosque Affair” (Ta’mir Masjid) of Istiqomah, tegalrejo, Yogyakarta
- 2008- Present, The Secretary General of RW 13 Karangwaru Kidul, Tegalrejo, Yogyakarta.
- 2012, The member of Committee “ISNU” DIY (Ikatan Sarjana Nahdlatul Ulama).

Professional Experiences:

- 2018 – Present, Director Executive on Masjid Syuhada Foundation in Jogjakarta
- 2015 - Present, Ph.D Candidate on Islamic Thought and Muslim Societies UIN Sunan Kalijaga Yogyakarta.
- Commissioner and Vice Chairman of Local Ombudsman Of Jogjakarta Province, 2012-2015
- 2006 – Present, Lecture on Islamic Borading School of Islamic University of Indonesia
- 2005, Assistant Researcher on World Health Organization (WHO) about Human Right Approach for women issue.
- 2005- 2007, Research Officer on Media Research Training Center, Rifka Annisa-MRTC Yogyakarta.

- 2005,Fasilitator on Gender Analysis Training, held by Rifka Annisa MRTC Yogyakarta.
- 2005,Humanitarian worker in Aceh with psycho-spiritual approach for women victim of tsunami
- Fasilitator on Training of Psycho Social community based for disaster victim in Palembang, held by KOMNAS Perempuan (2009)
- Researcher and Consultant on assessment of Implementation SPM (standar Pelayanan Minimal) for Service Provider of women Victim of Violence on NTT held by UNFPA Cooperation with Ministry Of Women empowerment and Child Protection Republic of Indonesia,September 2011
- Researcher on Monitoring Media from gender perspective (study case local media in Jogjakarta) held by GIZ cooperation with Rifka annisa,Juli, 2011

Current Research Experience

- 2011, Researcher and Consultant on Research of Implementation SPM (standar Pelayanan Minimal) for Service Provider of women Victim of Violence on Kupang held by UNFPA Cooperation with Ministry Of Women empowerment and Child Protection Republic of Indonesia,**as a researcher and consultant**
- 2011, Researcher and Consultant on Research of Implementation SPM (standar Pelayanan Minimal) for Service Provider of women Victim of Violence on Ruteng (Manggarai) held by UNFPA Conducted with Ministry Of Women empowerment and Child Protection Republic of Indonesia,**as a researcher and consultant**
- 2011, Researcher and Consultant on Research of Implementation SPM (standar Pelayanan Minimal) for Service Provider of women Victim of Violence on Timur Tengah Selatan held by UNFPA Conducted with Ministry Of Women empowerment and Child

Protection Republic of Indonesia,as a **researcher and counsultant**

- 2011, Researcher on Monitoring Media from gender perspective (study case local media in Jogjakarta) held by GIZ conducted with Rifka annisa,as **Researcher and Counsultant**
- 2009, Researcher and Consultant on assessment of Implementation SPM (standar Pelayanan Minimal) for Service Provider of women Victim of Violence on Palembang South Sumatera held by UNFPA Cooperation with Ministry Of Women empowerment and Child Protection Republic of Indonesia,as a **Researcher and Counsultant**
- 2013, Researcher for assessment of state auxiliary institution Jogjakarta Province, held by Lembaga Ombudsman Daerah DIY, **as a researcher**
- 2014, Researcher for qualitative study on cases and institutions of public services, held by Local Ombudsman DIY
- 2015. The Main Researcher on research for “PKH inklusi disabilitas”. Held by Perkumpulan OHANA.

Recent Publication:

1. Published by Journal of Local Ombudsman DIY “ quo vadis jaminan kesehatan nasional: antara filantropi atau liberalisasi” (Jurnal Ombudsman Daerah, 2014)
2. Published by Jurnal of local Ombudsman DIY : “Paradigma Pendidikan berbasis nilai keistimewaan di DIY” (Jurnal Ombudsman Daerah DIY, 2013)
3. Published by Journal Of Local Ombudsman DIY “Analisis dialektik kebijakan public dan masalah: antara deontologist atau teleologis? (Jurnal Ombudsman Daerah DIY, 2014)
4. Published by bulletin PSI-UII “ epistemology pemikiran Mohammed Arkoun” (PSI-UII 2005)

5. Published by Journal Of STAIN Surakarta :”maslahat sebagai epistemology hukum Islam” (Jurnal Sekolah Tinggi al-Qur’an An-Nur, 2006)
6. Published by Rifka Annisa Women Crisis Center. Book and Module of gender analysis training (GAT), Rifka Annisa, 2009

Experience in terms of seminar and workshop

- Training, on gender analysis training, held by Rifka Annisa WCC, 2005
- Training Advocacy, held by Rifka Annisa WCC, 2005
- Training, re-education of men as an actor of violence, held by Rifka Annisa RTC, Yogyakarta, 2004
- Training , Anti trafficking, held by ACILS, 2005
- Training, services Trafficking Victims, held by Indonesia Act-Rifka Annisa RTC, 2005
- Training, on Effective communication to service trafficking victims, held by ICMC, Jakarta, 2005
- Training Research Methodology for qualitative and quantitative research, held by LkiS (2006)
- Training, developing Proposal Program for fundraising, held by Rifka Annisa (2007)
- Training, research methodology based on gender sensitive, held by PSW UGM (2007)
- Workshop, 1st Proposal Workshop “Men search for sex” Cross Border sexual Relations in Greater Southeast Asian Countries.. Center For Population and policy Studies, Gadjah Mada University, 8-9 May 2006 Yogyakarta, Indonesia.
- International Conference on religion and globalization: Challenge and opportunity held by Center for Religious and cross cultural Studies (CRCS)- ICRS, 2008
- Counseling Training for internal counselor of Rifka Annisa held by MRTC (2008)

- Training, Psychological First Aid (PFA) for disaster victims, held by jaring kawan (2009), Atmajaya University, Jakarta
- Training, Psycho-Social community based for disaster victim, held by jarring kawan (November 2009), atmajaya University, jakarta
- Workshop on writing book for vurnareble group from human rights perspective, held By PUSHAM-UII, 2010
- International Conference and Research on Resurgence of Religion, held by ICRS-UGM on November 2010
- International Conference on contemporary Islamic Ethics: Key Issues, Concerns and Challenges, ICRS, UGM, 2012
- Autumns School at Leiden University, The Netherlands, Desember 2016
- Short Course at Radboud University, The Netherlands, October 2016.
- Summer School at USPPIP (Understanding Sharia Past Perfect, Imperfect present), at Exeter University, United Kingdom, July 2018.
- The Fisrt Conference between India and Indonesia at Sheraton Hotel, Yogyakarta, held by Ministry of foreigner affair Republic of Indonesia, 2018.

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